

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
AUGUST 10, 2011

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Mick Savage, Jack Thomas, Nann Worel

EX OFFICIO:

Planning Director, Thomas Eddington; Planner, Kirsten Whetstone Planner; Kayla Sintz, Planner;
Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Wintzer called the meeting to order at 5:40 p.m. and noted that all of the Commissioners were present except Commissioners Pettit, Hontz and Strachan who were excused.

ADOPTION OF MINUTES – July 27, 2011

MOTION: Commissioner Thomas moved to APPROVE the minutes of July 27, 2011.
Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington reminded the Planning Commission that the next joint meeting with the City Council was scheduled for August 25th. The Commissioners would be receiving a Staff report and agenda.

Chair Wintzer stated that he would be out of Town for the next regular Planning Commission meeting on August 24th and the joint meeting with the City Council on August 25th.

Commissioner Savage asked if the Planning Commission would hold their regular meeting the night before Thanksgiving. Director Eddington replied that due to the holidays, the Planning Commission typically has one meeting in November and December. He could not foresee canceling any other Planning Commission meetings prior to November.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **263 Park Avenue – Conditional Use Permit for a private driveway in a public right-of-way (Application #PL-11-01291)**

Planner Kirsten Whetstone reviewed the application for a conditional use permit for construction in the City right-of-way. The request was for a driveway within the Third Street right-of-way located on the west side of Park Avenue, one block from Main Street, for the historic yellow house at 263 Park Avenue.

Planner Whetstone noted that the application had been reviewed by the Historic Design Review Team to look at providing a garage for the historic home. The design guidelines require that the applicant explore back and side alternatives before placing garages in front of the structure, as a way to avoid impacting the historic front facade. Planner Whetstone remarked that the proposed design would provide parking from the side that is accessed off of the Third Street right-of-way. It is a platted right-of-way. There is not a street in the right-of-way, but it does have a set of public stairs.

Planner Whetstone reviewed slides to indicate the location of the property line. The stairs and the setback to the property line take up approximately 8 feet. The retaining wall is currently in the 30 foot right-of-way. The request was for a 10 foot driveway to go back approximately 20 feet to access a two-car garage with two separate 9-foot wide doors.

Planner Whetstone stated that a conditional use permit for a private driveway in a public right-of-way must meet the standards of review for construction of private driveways within platted unbuilt City streets, as outlined in LMC Section 15-3-5, Off Street Parking.

Planner Whetstone reviewed slides to orient the Planning Commission to the subject property and the right-of-way. She noted that the house sits on a typical 25' x 75' Old Town lot. Planner Whetstone pointed out that the structure has a second story that was not shown in the Staff report. She presented the streetscape showing the historic structures, the right-of-way and the stairs.

Planner Whetstone stated that Ken Martz lives at 305 Park Avenue. Mr. Martz had expressed concerns related to his property. However, after meeting with the Staff he was comfortable with the project and had sent an email in support. Planner Whetstone remarked that the fire hydrant would need to be relocated so the additional ten-foot wide parking space for the public is accessible. Mr. Martz requested that the hydrant be located away from his property. Planner Whetstone indicated a possible location for the hydrant that would not interfere with the entrance to the public space or to Mr. Martz's house.

After speaking with the City Engineer, Planner Whetstone added Condition of Approval #12 stating that when the hydrant is relocated it would be placed to the south of the stairs and not to the north.

Commissioner Savage referred to the expression, "City right-of-way" and asked if the City owns the property or just the right-of-way on the property. Director Eddington replied that the City owns the property unless the right-of-way was vacated and deeded to the adjacent property owners. Commissioner Worel clarified that the platted street would never be built. Chair Wintzer clarified that this was correct because it was too steep. Planner Whetstone explained that the City installed the stairs instead of building the street. She noted that the new elevator that is being constructed for the

Treasure Mountain Inn building is also located in the Third Street right-of-way, as well as associated walls and landscaping which extend from Park Avenue down to Main Street.

Planner Whetstone stated that an encroachment agreement from the City Engineer is required for the driveway. There is also a possibility that the driveway may require City Council approval.

Planner Whetstone noted that page 49 of the Staff report listed the criteria outlined in LMC 15-3-5, as well as the Staff's analysis for compliance with each criteria. There were two additional criteria in Chapter 3 for a driveway. One was the encroachment permit and the second stated that utilities and snow melt devices also require approval. She stated that the applicant was proposing to do a snow melt system, and had expressed interest in the idea of a solar heat melt system to help offset some of the energy use.

Planner Whetstone remarked that the Snyderville Basin Water Reclamation District has a sewer line running through this property. When the property was informally graded out, the sewer line was only three feet deep and presents a frost risk. Therefore, as part of this project, the applicant would be required to move the sewer line away from the stairs and bury it deeper.

Chair Wintzer was concerned that the public parking would be eliminated with the proposed hydrant location. Mr. Baglino, the contractor representing the applicant, explained why the parking would not be affected. Chair Wintzer reiterated his concern and wanted to make sure the parking would not be impacted. Planner Whetstone indicated an alternative location for the hydrant if they find that the proposed location would not provide enough clearance. She emphasized that the parking space would remain.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Director Eddington clarified that the retaining wall would be placed a few feet away from the stairwell and it would be some type of concrete board form. Director Eddington understood that the landscape screen for pedestrians would go between the retaining wall and the stairwell. Planner Whetstone answered yes. Mr. Baglino stated that there would be another buffer at the end of the public parking stall between the driveway and the parking stall. Director Eddington asked if curb cuts or different pavement was being proposed on Park Avenue. He was told that no alterations were planned.

The Staff recommended that the Planning Commission consider approving the 263 Park Avenue conditional use permit according to the findings of fact, conclusions of law, and conditions of approval outlined in the Staff report, with an additional condition that, "The fire hydrant be relocated to an area on the south side of the staircase to avoid conflicts with use of the public parking space".

Chair Wintzer stated that he lives at the other end of the street on the other side of the hill; and part of that property was vacated and abused for the last four years. He wanted to make sure that when

the City allows people to build in public right-of ways they are required to post a bond and submit a construction time schedule.

Chair Wintzer added the following conditions of approval:

- The parking space must be maintained during construction.
- The applicant must post a bond for the work done in the right-of-way to guarantee the City that the work will be completed.
- A certification of occupancy is not issued until the work is done.
- As part of the construction mitigation plan with the Building Department, the applicant must provide a schedule to guarantee that the work will be done in a timely manner.

Commissioner Worel asked if there was any way to make sure the applicant maintains the landscaping. Mr. Baglino stated that the landscaping would be native grasses and wildflowers. They also plan to speak with the City Engineer about the possibility of irrigation. He believed the proposed landscaping would require minimal maintenance. Planner Whetstone noted that a condition of approval addresses the responsibility for maintenance. If the applicant does not meet the condition they would be in default. Commissioner Savage thought that would address Commissioners Worel's concern.

MOTION: Commissioner Thomas moved to APPROVE the Conditional Use Permit for 263 Park Avenue with the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Staff report, and with the additional conditions of approval as stated by the Staff and Chair Wintzer. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 263 Park Avenue

1. The property is located at 263 Park Avenue.
2. The zoning is Historic Residential (HR-1).
3. The house at 263 Park Avenue was constructed in 1983. The house is a modified Hall-Parlor house and is listed as a Significant historic structure in the current Park City Historic Sites Inventory.
4. The house is located on Lot 16, Block 2 of the Park City Survey. Lot 16 contains 1,875 square feet and is adjacent to platted right-of-way for un-built Third Street. The City constructed a public staircase in the right-of-way to connect Park Avenue and Woodside Avenue.
5. There is an existing sewer line in the right-of-way and existing overhead power lines cross the eastern twenty feet of the ROW providing power to 263 Park. According to the SBWRD when the parking area was leveled out the required sewer line depth was compromised. SBWRB has requested the applicant remedy this situation by relocating the line towards the

center of the ROW and placing it deeper in the ground to maintain adequate frost depth. The applicant has agreed to do this work.

6. A rear addition was added in the 1940s and a second floor and side deck were added in 1973, according to the County assessor's office. The entire house was remodeled in the last 1990s, including windows, siding, roofing, porch and front stairs were rebuilt, the 19773 side deck was removed, and foundation work was done around the newer area. The rock walls were rebuilt at this time.
7. Access to the house is from Park Avenue via a front entry door facing the street. The house currently has no garage. On-street parking is utilized by the current owner.
8. Third Street ROW to the north of 263 Park Avenue is developed with City Stairs connecting Park Avenue to Woodside Avenue. The stairs and stair setback take up approximately 8.5 feet of the 30' ROW. An area approximately 16' by 12' has been leveled out and graveled to create off-street parking within the ROW. This area is used by the neighborhood for off-street parking. The rebuilt historic rock wall for 263 Park Avenue is located in the southern 2' of the ROW. The wall will be repaired and maintained in the current location. The remaining ROW is undeveloped and contains grasses and weeds and informal stepping stones.
9. On April 19, 2011, the applicant submitted a pre-HDDR application for a garage to be located beneath the historic house. The application was reviewed by the Design Review Team on April 27th. The applicant was encouraged to pursue the side facing garage design with access from Third Street and was informed that a Conditional Use Permit would be required to construct a driveway within the platted, un-built Third Street ROW.
10. On June 27, 2011, the applicant submitted a Historic District Design Review. The proposed design does not require the house to be raised or lowered from its existing location. Final grade will remain as it exists at the perimeter of the house, with the exception of the area of the garage. The allowable building height from final grade is within the maximum 27'. The existing access, front porch, and front entry door will remain.
11. The Design Guidelines encourage garages to be placed to the rear of historic structures if there is an option to do so. The proposed garage is located on the side of the house towards the rear and beneath that portion of the house that was modified with the second story. The side access from the Third Street right-of-way minimizes impacts of the garage on the front façade and streetscape and maintains the character of the neighborhood.
12. The first set of public notices for the Historic District Design Review was sent out on July 5, 2011 and the property was posted. Staff is in the process of finalizing the design review application and will condition that review upon approval of a Conditional Use permit for the driveway.
13. The proposed driveway has a 2.5% slope.

14. The driveway is proposed to be 10' wide at the street and 10' side in front of the garage and take up approximately 600 sf of the ROW.
15. There is adequate snow storage at the end of the driveway. A snow melt system is proposed and requires an Encroachment Agreement to be approved by the City Engineer prior to issuance of a building permit.
16. There is a net increase of one parking space, with two spaces removed from Park Avenue and into a garage. and in the location of the informal gravel parking area one paved space will be provided for neighborhood parking.
17. The driveway and related improvements, including the retaining walls and relocated sewer line, are designed to minimize present and future conflicts with public utilities and stairs.
18. The Staff findings in the Analysis section of this report are incorporated herein.

Conclusions of Law – 263 Park Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code.
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 263 Park Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The plan shall include a phasing, timing, staging, and coordination of construction with adjacent projects to address mitigation of neighborhood impacts due to the volume of construction in this neighborhood.
3. Measures to protect the historic house and the Third Street stairs shall be included in the Construction Mitigation Plan (CMP). The Chief Building Official shall determine the amount of the historic preservation guarantee, based on the proposed construction plans.
4. City Engineer review and approval of all construction, including grading, utility installation, public improvements and storm drainage plans, and all construction within the ROW, for compliance with City standards, is a condition precedent to building permit issuance.

5. Snyderville Basin Water Reclamation District review and approval of the utility plans for compliance with SBWRD standards and procedures, is a condition precedent to building permit issuance.
6. No building permits shall be issued for this project until the final plans for the garage and retaining walls are reviewed and approved by the Planning Department Staff for compliance with the Historic District Design Guidelines.
7. A final landscape plan shall be submitted for approval by the Planning Department and the landscaping shall be complete prior to issuance of a final certificate of occupancy for the garage. Landscaping shall include the sloped area within 75' of Park Avenue and a minimum of 3' landscape buffer between the driveway and wall along the stairs. The landscape plan shall provide mitigation of the visual impacts of the retaining walls and driveway.
8. An Encroachment Agreement for the driveway is a condition precedent to issuance of a Building Permit to be approved by the City Engineer as to content and by the City Attorney as to form. The Agreement shall include requirements for driveways, utilities, snowmelt system and maintenance of such items, including landscaping and retaining walls. Pervious paving is recommended if it works with the snow melt system.
9. The applicant/property owner is responsible to maintain all landscaping associated with the driveway and retaining walls, including the sloped area within 75' of Park Avenue.
10. Applicant agrees to post a sign noticing the public of the parking space prior to certificate of occupancy of the garage.
11. The applicant stipulates to these conditions.
12. The fire hydrant shall be relocated to an area on the south side of the Third Street stairs to avoid conflicts with use of the public parking space.
13. The public parking space must be maintained during construction.
14. A construction schedule shall be provided to the Building Department with the building plans and a bond shall be posted prior to issuance of a building permit for the driveway to ensure timely completion of the construction project within the City ROW.
15. No certificate of occupancy shall be issued until the work is done.
2. **235 McHenry Avenue – Modification of a Steep Slope Conditional Use Permit (Application PL-11-01273)**

Chair Wintzer disclosed that the applicant, Anita Baer, is his neighbor. He and Ms. Baer have had several conversations regarding this matter, but it was nothing that would change his opinion either way.

Planner Kayla Sintz reviewed the request for a modification to a Steep Slope CUP that was approved July 8, 2009. That approval was for a garage addition and an addition to the home. As part of the original approval, Condition #2 was added stating that, "Hot tub and deck encroachment identified in a Survey of April 8, 2009 will be moved to meet all setbacks within property lines prior to Certificate of Occupancy. Such moving of structure will be shown on building permit plans". Planner Sintz stated that the CUP was granted with that approval and the building permit, which the Staff signed off, also included that modification.

Planner Sintz noted that the hot tub has been removed. She presented slides showing the deck in question, as well as an aerial which identified the encroaching area. Ms. Baer has ownership of both parcels. Planner Sintz reviewed the survey from April 8, 2009, which was submitted to Staff and was how the encroaching deck was discovered. She also presented the HDDR and CUP drawings submitted by the architect, Jonathan DeGray, indicating that the deck encroachment would be removed.

Planner Sintz reported that the Building Department granted a building permit in October 2007. When this project came before the Planning Commission and went through the Development Review process, Ron Ivie, the Chief Building Official at that time, was in support of fixing the error of the building permit being granted and correcting the encroachment issue. That was the reason for adding Condition of Approval #2.

Planner Sintz stated that the applicant submitted a request to remove Condition of Approval #2 in order to keep the deck encroachment. The Staff recommended denying the request and correcting the encroachment problem. Planner Sintz remarked that the applicant had two options. The first would be to remove the encroaching deck and meet the conditions of approval from 2009. The second would be for the applicant to submit a lot line adjustment modifying the lot line. That process could be done administratively. Planner Sintz noted that the Staff report referenced two different plat amendments that occurred for that property. However, there is an issue with granting an easement to oneself regarding the bundle of property rights merges.

Planner Sintz reported on one call she received from a neighbor inquiring about the application in general. She had not received any additional public input from the surrounding neighborhood.

Planner Sintz requested that the Planning Commission review the request for the Steep Slope Conditional Use Permit modification at 235 McHenry to remove Condition #2 and consider denying the request based on the findings of fact and conclusions of law.

Anita Baer, the applicant, reminded the Planning Commission that the Staff admitted that they were unsure how the permit was even granted across the property line. Ms. Baer understood that the City would like her to cut her deck to adhere to the property lines. When her husband built the deck with the City's permission, she was unaware that he crossed the property lines. Her husband passed away in August 2010. Ms. Baer stated that she was unaware that three years ago they could have asked for an encroachment; however, she did not understand the difference between an encroachment and an easement. Ms. Baer requested that the Planning Commission grant her an

encroachment or easement of the existing deck on the adjacent property to the north, which she also owns. If she ever sells that property, they could have the deck back.

Commissioner Savage clarified that Ms. Baer owns the property into which the deck encroaches. He asked why Ms. Baer could not grant an easement to herself to allow an encroachment. Assistant City Attorney, Polly Samuels McLean, replied that easements cannot be granted to oneself. A bundle of rights is associated with the property. You could grant an easement to your neighbor; but under legal principles you cannot grant an encroachment or easement to yourself, because it merges back together into the bundle of rights. Ms. McLean stated that in Park City, allowing those types of easements are more for historic encroachments and not ones that are self imposed. The City allows snow shed easements in Old Town because the setbacks are so small that a building could not be built without an encroachment on the neighbor's property.

Assistant City Attorney McLean pointed out that Ms. Baer had alternatives to address the issue. If the Planning Commission chose to deny the request, she could do a lot line adjustment and push the lot line over so the deck is on the property at 235 McHenry.

Commissioner Savage asked if it was possible for the City to devise a mechanism that allowed Ms. Baer to leave the deck and the property status quo, with the understanding that if the other lot sells, the condition of approval could still be enforced at that point. He commented on the issue of property rights and felt Ms. Baer should be allowed to use her property. Commissioner Savage suggested that the City could stay the decision for five years and revisit it at that time. Ms. McLean could not support that suggestion from a legal standpoint. The reason for enforcing property lines is to protect future buyers. She understood that it was a difficult position for Ms. Baer. Commissioner Savage asked if a note could be put on the plat indicating that the illegal encroachment would need to be rectified prior to selling the property. Ms. McLean replied that a plat note would be a plat amendment. It may be possible to record something against the property, but it was not the preferred method. She understood that the City erred when the building permit was issued; however, the City also tried to correct the error as part of the Steep Slope CUP by adding Condition of Approval #2. She pointed out that the applicant agreed to that condition at the time.

Commissioner Thomas sympathized with Ms. Baer's situation, but he felt it was important to consistently apply the Code across the board. Commissioner Thomas suggested that Ms. Baer either apply for a lot line adjustment or remove a portion of the deck.

Planner Sintz clarified that Ms. Baer had the option of an administrative lot line adjustment, which is an internal process reviewed by the Planning Director and City Engineer. It would not go before the Planning Commission or the City Council. The second option would be a plat amendment, in which a plat note would be added with a clause as to when it would be removed. Assistant City Attorney McLean reiterated that she would not legally recommend a plat amendment. She clarified that it was only her legal recommendation, and the Planning Commission had the discretion to make that decision.

Commissioner Thomas reiterated that Ms. Baer had two options to correct the problem. Based on that recourse, he would deny the request based on the Staff's recommendation.

Commissioner Worel expressed sympathy to Ms. Baer on the loss of her husband and for this difficult situation. However, the condition was agreed to when the conditional use permit was

approved, and she concurred with Commissioner Thomas that there were other areas of recourse to remedy the situation. Commissioner Worel thought the Planning should deny the request as recommended by Staff.

MOTION: Commissioner Thomas moved to DENY the modification to the Steep Slope CUP for 235 McHenry Avenue to remove Conditions of Approval #2, based on the Findings of Fact and Conclusions of Law outlined in the Staff report. Commissioner Worel seconded the motion.

VOTE: The motion passed 2-1. Commissioners Worel and Thomas voted in favor of the motion. Commissioner Savage voted against the motion.

Because the public hearing was never opened, the motion and vote were withdrawn and the matter was re-opened for a public hearing.

Chair Wintzer opened the public hearing.

Mike Sweeney encouraged the Planning Commission to look at this as a special case. Ms. Baer's property is owned in an IRA account and she cannot move the property line because she is not entitled to do that by the IRS. Mr. Sweeney felt the City needed to be more creative in an effort to help Ms. Baer. He believed it was a matter the City should seriously consider.

Mary Cook thought the Assistant City Attorney had done an excellent job in standing up for the changes that need to be made. Not applying the rules consistently causes confusion. She felt consistency was important, particularly in Old Town, where the property lines have been the same for years and where people are good neighbors. The established laws should be used to the best advantage. Ms. Cook suggested that the City consider challenging the IRS rule that prevents someone from managing their property, particularly since they will probably encounter similar property issues in the future.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Thomas moved to DENY the modification to the Steep Slope CUP for 235 McHenry Avenue to remove Conditions of Approval #2, based on the Findings of Fact and Conclusions of Law outlined in the Staff report. Commissioner Worel seconded the motion.

VOTE: The motion passed 2-1. Commissioners Worel and Thomas voted in favor of the motion. Commissioner Savage voted against the motion.

Findings of Fact – 235 McHenry Avenue

1. The property is located at 235 McHenry Avenue within the Historic Residential – Low Density (HR-L) zoning district.
2. This lot is identified as Lot 1 of the Ivers/Baers Subdivision.
3. The Building Department granted a building permit BD-07-13179 for deck expansion/hot tub on October 22, 2007. This permit is open and has not been finalized.

4. The minimum side yard setback as approved with the plat is 10 feet with a total of 24 feet required. This lot has a setback of 14 feet to the south and a non-complying 5 feet to the north, (required to be 10' for any new construction). The north side yard setback is non-complying due to a corner of the pre-existing structure sitting in the setback of 5 feet.
5. The Planning Commission approved a Steep Slope CUP for 235 McHenry Avenue on July 8, 2009 for a garage addition.
6. Condition of Approval #2 from the July 8, 2009 approval indicates:
 2. Hot tub and deck encroachment identified in Survey of April 8, 2009 will be moved to meet all setbacks within property lines prior to Certificate of Occupancy issuance. Such moving of structure will be shown on building permit plans.
7. The Building Department granted a building permit BD-10-15548 for a garage addition which included removal of an encroaching deck, on September 7, 2010. This permit is still active and has not been finalized.
8. Although the hot tub has been removed, the deck still encroaches 7 feet over the property line.
9. Applicant owns the property being encroached upon.
10. On June 7, 2011 the owner submitted an application for CUP Modification to remove Condition of Approval #2, in order for the encroaching deck to remain in place.
11. The findings in the Analysis section of this report are incorporated herein.

Conclusions of Law – 235 McHenry

1. The CUP modification request is not consistent with the Park City Land Management Code.
2. All Conditions from the 2009 Approval continue to apply.
3. **201 Upper Norfolk Avenue – Extension of a Steep Slope Conditional Use Permit (Application #PL-1101240)**

Commissioner Thomas disclosed that he knows the architect and the applicant. He previously worked with the applicant on another site; however, he did not believe that association would impact his ability to be objective on this matter.

Chair Wintzer disclosed that he has known the application for a long time, but he did not believe that association would affect his decision on this matter.

Planner Sintz reviewed the application to extend a steep slope conditional use permit for 201 Norfolk Avenue. The property is in the HR-1 zone and straddles the zone line with the HRL zone.

Planner Sintz reported that on May 27, 2009 the Planning Commission approved this steep slope CUP. On June 9, 2010 the applicants requested a one-year extension, which was also approved by the Planning Commission, and extended the CUP one year from the date of the original approval to May 27, 2011.

Planner Sintz stated that the current request for an additional year would extend the CUP approval to May 27, 2012. A building permit would be required prior to that date or the CUP would expire. Planner Sintz noted that due to a change that occurred in January 2011, the Planning Director can approve the first request for a one-year extension. The request for a second year extension would go to the Planning Commission.

Planner Sintz noted that page 124 of the Staff report contained the Standard of Review for an extension as written in LMC 15-1-10(G). Under the standard, the applicant must be able to demonstrate no change in circumstance that would result in an unmitigated impact. She stated that the only change in circumstance since the original approval was that the 2009 Historic District Guidelines were adopted. Therefore, the Staff recommended Condition of Approval #1, "This approval is subject to the project meeting the current June 19, 2011 Historic District Guidelines". Planner Sintz had done a cursory review and found that because the structure at 201 Norfolk is a contemporary structure, the proposed addition meets the new guidelines. However, the project would go through the posting and noticing process required by the new guidelines.

The Staff recommended that the Planning Commission review the request for an additional year extension of the approval of the Steep Slope Slope CUP at 201 Norfolk Avenue. The Staff had prepared findings of fact, conclusions of law and conditions of approval for consideration.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Thomas moved to extend the Steep Slope Conditional Use Permit for 201 Norfolk Avenue, consistent with the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the Staff report.

Assistant City Attorney McLean corrected a typo in condition of approval #10. The condition read, "This approval will expire on May 27, 2012 if an application for a building permit has not been issued prior to this date." The correction was to strike "...an application for..." from the sentence to be consistent with standard language.

Commissioner Thomas amended his motion to include the correction to Approval #10. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 201 Norfolk Avenue

1. The property is located at 201 Norfolk avenue within the Historic Residential (HR-1) zoning district.
2. The existing building started as a duplex built circa 1970's. In 2000, the 201 Norfolk Avenue Subdivision was approved and recorded. The subdivision created two lots, one for the duplex and the second for a new building located at 205 Norfolk. In 2002, the duplex was rehabilitated and converted into a single family dwelling at the same time as the construction of the adjacent (to the north) 205 Norfolk Avenue by a previous owner.
3. The existing house at 201 Norfolk is approximately 2,310 square feet.
4. The First Amended 201 Norfolk Avenue subdivision was approved in 2007 which included the adjacent (to the south) 16 Sampson Avenue. The First Amended 201 Norfolk Avenue subdivision made the 201 Norfolk property larger in order to create a garage to the south with shared access with 16 Sampson.
5. This lot is adjacent to the HRL zone and is characterized by several historic residential structures and mostly larger contemporary houses on larger lots.
6. Access to the property is from a shared driveway with 16 Sampson Avenue.
7. Under the current LMC, the minimum front yard setback for lots of this size is 10 feet.
8. Under the current LMC, the minimum rear yard setback is 10 feet.
9. Under the current LMC, the minimum side yard setback is 5 feet for this lot, with a total of 19 feet.
10. Under the current LMC, the maximum building height in the HR-1 zone is 27 feet. No height exceptions are allowed.
11. The maximum number of stories allowed is three stories.
12. The roof pitch in the HR-1 zone is required to be a minimum of 7:12, unless the roof is a flat vegetated roof.
13. The addition is two stories with a flat, vegetated roof under the 17-foot height requirement.
14. The applicant is proposing two parking spaces within a double car garage with a shared access driveway with 16 Sampson. The garage doors face away from the street.
15. The maximum footprint for the lot is 2,168 square feet, subject to Steep Slope CUP review by the Planning Commission. The proposed footprint is 2,165 square feet with the addition.

16. The Planning Commission approved a Steep Slope Conditional Use Permit on May 27, 2009. The CUP is valid for one year unless a building permit or an extension is granted.
17. The Planning Commission approved a one-year extension on the Steep Slope CUP. The CUP extension is valid for one year unless a building permit or an extension is granted. The extension would expire on May 27, 2011.
18. A complete application for additional year extension was received on May 6, 2011.
19. Pursuant to LMC 15-1-10(G): The Planning Commission may grant an additional one (1) year extension when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request.
20. The Historic District Guidelines have changed since the time of the original application and the request for this extension.
21. The second CUP extension is valid for one year unless a building permit is granted. This extension will expire on May 27, 2012.
22. The findings in the Analysis section of this report are incorporated herein.

Conclusions of Law – 201 Norfolk Avenue

1. The CUP and extension, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B) and 15-1-10(G).
2. The CUP extension, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.
5. No change in circumstance that would result in an unmitigated impact has been found.

Conditions of Approval – 201 Norfolk Avenue

1. This approval is subject to the project meeting the current (June 19, 2009) Historic District Guidelines.
2. A building permit may not be issued while a structure sits over the property line.
3. All Standard Project Conditions shall apply.

4. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
5. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
6. A final landscape plan shall be submitted for review and approval by the City landscape Architect, prior to building permit issuance.
7. No building permits shall be issued for this project unless and until the design of the addition is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the Historic District Design Guidelines.
8. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.
9. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped, and signed by a licensed structural engineer if required by the Building Department.
10. This approval will expire on May 27, 2010 if a building permit has not been issued prior to this date.
11. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission.
4. **16 Sampson Avenue – Steep Slope Conditional Use Permit**
(Application #PL-08-00572)

The application for 16 Sampson Avenue is related to the application for 201 Norfolk Avenue. The applicants own both properties.

Commissioners Wintzer and Thomas made disclosures prior to the discussion on 201 Norfolk. Those same disclosures apply to 16 Sampson Avenue.

Planner Sintz reviewed the application for a Steep Slope CUP, which is required if the total dwelling square footage is greater than 1,000 square feet and constructed on a slope greater than 30%. Planner Sintz stated that the project originally came in as a complete application in November 2008. It was for renovation to an existing historic house and included adding a garage. The project was subject to the TZO in place at the time, which incorporated a number of changes to the H zones. The changes included a maximum of three stories, that final grade be returned to existing grade within four feet, and a ten foot step on the third floor façade. Due to the TZO, the project sat through

the process. Therefore, it is subject to the new LMC requirements, but it is vested under the Old Historic District Guidelines. The new Historic District Guidelines were adopted in June 2009.

Planner Sintz stated that the project is located in the HRL zone. As previously mentioned, 201 Norfolk is in the HR-1 district and a zone line goes through the property. The existing historic house on the site is listed as Significant on the Historic Sites Inventory. She presented a slide showing the existing 16 Sampson location. In 2007 a plat amendment was done to combine lots in order to enable an expansion to 201 Norfolk. The plat amendment put a subdivision line through the historic structure at 16 Sampson. Lots were also combined in order to facilitate an addition to 16 Sampson. Planner Sintz clarified that the Staff is unsure how the plat through the historic structure occurred, but there have been numerous discussions regarding that issue.

Planner Sintz stated that the existing historic house on the site is 768 square feet. The house went to the Historic Preservation Board in 2009 for a determination of significance. The applicant was requesting that the home be removed from the Historic Sites Inventory. This specific structure has considerable history in terms of being on a certain inventory and then off a certain inventory. When the current Historic Sites Inventory was adopted by the City Council, the City Council had asked the Preservation Consultant and the Staff to broaden the net of historic structures. When the net was broadened, 16 Sampson was put back on the Historic Sites Inventory. Planner Sintz stated that when the application was submitted in 2008 it was assumed that the structure was historic and the applicant moved forward on that basis. The proposal was to move the project back, share a driveway with 201 Norfolk, and remove the non-compliance with the subdivision line going through the project.

Planner Sintz stated that the new proposed footprint, including the historic, house is 2,160 square feet. The total floor area, including the garage with the addition is 3,904 square feet. The Planning Commission previously reviewed this project on May 13th, May 27th, June 24th, August 12th and September 23rd of 2009. On September 23, 2009 the Planning Commission gave clear direction in regards to the previous design not meeting one of the newly adopted LMC amendments requiring that final grade be returned to four feet within the existing grade.

Planner Sintz indicated an area in the older design that was carved out for a patio. On September 23, 2009 the project was continued to January 13, 2010 to allow the applicant the opportunity to find ways to come into compliance. On January 13, 2010 the applicant requested a continuance to a date uncertain so they could redesign the project to come into compliance. Since that time the applicants have worked with her, Tom Eddington, Dina Blaes, the preservation consultant, and Roger Evans, the acting Chief Building Official at that time, in an effort to revise the plans.

Planner Sintz noted that the application for 16 Sampson Avenue came back at the same time the extension request for 201 Norfolk was submitted. That extension request for the adjacent property is based on construction for both properties occurring at the same time. Planner Sintz pointed out that the historic structure needs to be removed in order for 201 Norfolk to move forward. Planner Sintz stated that the Staff and the applicant discussed modifications to the historic structure, outlined on page 151 of the Staff report. She noted that the current design is based on a 1930's tax photo. The structure would be reconstructed to similarly match the latest evidence of the historic form.

Planner Whetstone noted that the Planning Commission was provided with copies of three emails in support of the project. The Staff also received two phone calls. One was an inquiry from the Hayes Brothers who have several lots on Norfolk. Another was from John Vrabel in support of the project.

Planner Sintz referred to Finding of Fact #8 and noted that 16 Sampson Avenue should be 201 Norfolk. The Finding was corrected to read, "Access to the property is from a shared driveway with 201 Norfolk".

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the Steep Slope CUP at 16 Sampson Avenue, according to the findings of fact, conclusions of law and conditions of approval.

Tom Bennett, representing the applicant, pointed out that 16 Sampson has been before the Planning Commission five times over a period of two years. Over that time, various criteria of the CUP was reviewed and changes were made. The last time this was before the Planning Commission, the consensus was that all the criteria had been satisfied except the requirement of the four-foot grade change. Mr. Bennett thought the review this evening should be limited to the issue of whether the revised design satisfies the requirement for keeping the finished grade within four feet of the natural grade.

Chair Wintzer opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, thought this was an attractive project. The house is deteriorating and the proposed plan appears to fit in the neighborhood. Ms. Meintsma understood that the project at 16 Sampson was subject to the old design guidelines, but she used the project as an example to show what would occur if the new guidelines were applied. Under the new guidelines the orientation would be considered. She presented a map showing how the project would switch orientation to closely match Norfolk, Woodside and Park Avenue. Because the new guidelines focus on orientation, if 16 Sampson was subject to those guidelines it would be oriented correctly on its own lot and would not encroach the other lot. It would follow the contour lines better, it would maintain the unique character of Sampson, it would be oriented close to the street, and it could still have a small front yard, even with a shared driveway.

Ms. Meintsma clarified that her comments were only intended to show how successful the new guidelines were, and not that 16 Sampson should be subject to those guidelines. She felt it was important to see how applying the new guidelines would enhance the project itself and maintain the character of Sampson a little better than what it would be under the old guidelines, without restricting the applicant or the project.

Chair Wintzer closed the public hearing.

Chair Wintzer stated that Commissioners Pettit and Hontz were out of town and unable to attend this evening. However, he received phone calls from both Commissioners who asked that he relay their comments for the record. Chair Wintzer paraphrased the comments and noted that they were primarily directed to the Planning Commission. Commissioners Pettit and Hontz felt that the Planning Commission erred in allowing the lot line adjustment to move forward and created a non-

conforming use. At every meeting the Planning Commission talked about size, scale, and orientation to the road. They had "hung their hats" on a four-foot ordinance in the Code and did not pay attention to the big picture. If the Planning Commission had asked questions about the General Plan and the purpose statements of the two zones, they would have been looking at a different design. Commissioners Pettit and Hontz believed the application had gone too far to ask the applicant to start over, because it was the Planning Commission who erred and not the applicant. Commissioner Pettit and Commissioner Hontz both said that they would vote in favor to approve with added conditions related to the rock work. They suggested that the applicant work with Planner Sintz to minimize some of the rock work in the front of the building. They also suggested that the Planning Commission as a whole should pay more attention to all the issues earlier in the process rather than later.

Commissioner Thomas felt the request to add a condition was unusual since both Commissioners were not present. Assistant City Attorney McLean stated that it was appropriate for the Planning Commission to hear comments from Commissioners Pettit and Hontz; however, how an absent member would vote should not influence the Commissioners who were present. Chair Wintzer did not believe they were trying to influence the Planning Commission. The intent of their comments was to say that the project had gone too far, and while they may not favor it, they would not vote against it.

Commissioner Thomas disagreed with Commissioners Pettit and Hontz regarding the four-foot rule. He visited the property and looked at this project when he was previously on the Planning Commission. Commissioner Thomas believed the four-foot rule was a good idea, and he could not understand why "hats were hung" on that issue. Commissioner Thomas stated that houses to the north of the property are very large and houses to the south are smaller. He believed the applicant had been caught between various codes at various times and the Planning Commission forced them to meet those modifications and changes. Commissioner Thomas thought the Planning Commission should also be reasonable with regard to the historic guidelines, because the project is consistent with the guidelines that were in place when they applied. Commissioner Thomas understood the discussion related to size and scale, purpose statements and the General Plan; however, the physical massing of the building has been broken up in way that addresses the questions and follows the guidelines. For those reasons, Commissioner Thomas supported the project.

MOTION: Commissioner Savage moved to APPROVE the Steep Slope Conditional Use permit at 16 Sampson Avenue in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Staff report with the correction to Finding of Fact #8 to change 16 Sampson Avenue to 201 Norfolk.

Planner Sintz noted that the language change that was made to Condition of Approval #8 during the motion on 201 Norfolk would also apply to Condition for Approval #8 for this item. The condition should read, "This approval will expire on August 10th, 2012 if a building permit has not been issued.

Commissioner Savage amended his motion to include the correction to Condition of Approval #8. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 16 Sampson Avenue

1. The property is located at 16 Sampson Avenue within the Historic Residential Low Density (HRL) zoning district.
2. The existing footprint of the single story historic house, minus several subsequent footprint is 2,160 with a total floor area, including garage, of 3,904 square feet. A footprint of 2,164.8 square feet is allowed.
3. The lot size is 6,100 square feet.
4. The existing house is considered Historically Significant, is listed on the Park City Historic Sites Inventory, and this designation was affirmed by the Historic Preservation at its meeting on May 6, 2009.
5. The 16 Sampson Avenue subdivision was approved in 2007 concurrently with the adjacent (to the north) First Amended 201 Norfolk Avenue Subdivision. The 16 Sampson Subdivision consolidated four Old Town lots into one lot of record with a road dedicated for existing Sampson Avenue.
6. The first amended 201 Norfolk Avenue subdivision added to the 201 Norfolk property in order to create a garage to the south with shared access with 16 Sampson.
7. The HRL zone is characterized by several historic residential structures and mostly larger contemporary houses on larger lots.
8. Access to the property is from a shared driveway with 201 Norfolk.
9. Under the current LMC, the minimum front yard setback for lots of this size is 10 feet. The front of the garage is approximately 26 feet from the front property line at its closest point.
10. Under the current LMC, the minimum rear yard setback is 10 feet. The addition is ten feet from the rear property line.
11. Under the current LMC, the minimum side yard setback is 5 feet for this lot, with a total of 18 feet. The north side of the house is 13 feet from the property line and the south side of the house is 5 feet from the property line.
12. Under the current LMC, the maximum building height in the HR-1 zone is 27 feet. No height exceptions are allowed. The proposed house does not exceed 27 feet in height.
13. Under the current LMC, the maximum number of stories allowed is three stories.
14. The addition is two stories with a flat, vegetated roof under the 27-foot height requirement.

15. The applicant is showing two parking spaces within a double car garage with a shared access driveway with 201 Norfolk Avenue.
16. The findings in the Analysis section of this report are incorporated herein.

Conclusions of Law – 16 Sampson Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B).
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 16 Sampson Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
5. No building permits shall be issued for this project unless and until the design of the addition is reviewed and approved by the Planning Department Staff for compliance with this Conditional Use Permit and the Historic District Design Guidelines.
6. As part of this building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.
7. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped, and signed by a licensed structural engineer if required by the Building Department.
8. This approval will expire on August 10, 2012 if a building permit has not been issued.

9. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission, subject to changes from the Historic District Design Review.
- 10: The window well on the north façade will be limited to the minimum egress size of the associated bedroom window and will contain an emergency egress ladder, per IBC.
5. **Land Management Code – Amendments to Chapter 1 (General Provisions), Chapter 11 (Historic Preservation), and Chapter 15 (Definitions) – to amend the review process of reconstructions and panelizations to include the Historic Preservation Board (Application #PL-11-01203)**

Planner Sintz reported that on September 3, 2011, the City Council, the Planning Commission and the HPB held a joint visioning session. During that session a discussion occurred regarding the process for when a reconstruction is permitted as part of the Historic District Design Review application. Public and property noticing, as well as opportunity for public input were also discussed. Direction was given to Staff to expand the review of all reconstructions to include a formal notice review and approval by the Historic Preservation Board. The Staff would make a recommendation and the application would move forward per the criteria currently outlined in the LMC.

Planner Sintz noted that reconstruction is defined as “The act or process of depicting by means of new construction, the form, features and detailing of a non-surviving site, landscape, building structure or object for the purpose of replicating its appearance at a specific period of time and in its Historic location”. She stated that reconstruction is a recognized form of preservation for Park City and industry standards. It is documented in the LMC and in the design guidelines.

Planner Sintz stated that from the Staff review and in preparing the amendments, she recommended adding disassembly to the Historic Preservation Review. The Staff worked with Dina Blaes, the Preservation Consultant, to draft a new definition for disassembly to be included in the Land Management Code. Disassembly would be defined as, “The act or process of taking apart a Historic building or structure in the largest workable components possible for the purpose of accurately reassembling it in its original form, location, and orientation”.

Planner Sintz remarked that anyone who has been actively involved in Historic District Design Reviews knows that disassembly is sometimes called panelization. However, panelization is not a historic preservation term. The Staff recommended that the Planning Commission also add disassembly to the Historic Preservation Board review since reconstruction and disassembly are the only times when a site is scrubbed and nothing is on it while work is being done or a foundation is being poured. Planner Sintz stated that if the original intent was in regards to a project on Park Avenue in which the public was not aware of what was going back up, the Staff would recommend that disassemblies be added to that as well.

Planner Sintz stated that the Staff has also been working with the HPB on a new signage system. Therefore, in addition to the possible change to the LMC, there would be increased signage at the disassembled and reconstructed sites.

Planner Sintz reviewed the proposed amendments and identified the applicable chapters. In Chapter 1, they would add a new noticing matrix required for new applications. The Staff recommended the same noticing that occurs for a conditional use permit. Chapter 11 would add Historic Preservation Board in places where it currently says Planning Staff approval. It would also capitalize the D in disassembly wherever that phrase occurs, since it is a newly defined term. A new definition would be added for Disassembly. Planner Sintz requested input from the Planning Commission as to whether they support including disassembly as part of the amendments.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the draft ordinance.

Chair Wintzer asked if the Historic District Guidelines would be changed to match the proposed amendments. Planner Sintz replied that any language in the guidelines that would conflict with the new LMC would be updated.

Commissioner Savage asked about the vetting process between the HPB and the Planning Department associated with how the LMC amendments were created. He assumed the HPB supported the proposed amendments. Planner Sintz explained that the LMC is not reviewed by the Historic Preservation Board. However, the HPB members favored the idea of being more involved in different historic design reviews, and this was deemed to be an appropriate way for the HPB to be involved. Commissioner Savage asked if they could assume that the HPB would embrace these amendments as being satisfactory to address the issues that caused the problem in the first place.

Director Eddington stated that the HPB fully supports the amendment to the LMC. He summarized that the change started with reconstruction and now includes disassembly, formerly known as panelization. Director Eddington noted that the information presented this evening would be given to the HPB as an information update. Planner Sintz remarked that the HPB would have to receive training in terms of how their review and approval would occur.

Commissioner Savage questioned whether they were putting the cart ahead of the horse as it relates to review by the HPB. If this change to the Land Management Code was being driven by their desire, he suggested that it would be better for the Planning Commission to review the amendment with the HPB prior to the City Council process. Planner Sintz understood that the direction came from the City Council in terms of what they deemed to be an appropriate role for the Historic Preservation Board. Director Eddington noted that the City Council gave that direction in conjunction with the joint visioning session with the HPB.

Assistant City Attorney McLean stated that the HPB has appointed a liaison to attend Planning Commission meetings when items on the agenda relate to the Historic District. The Liaison would then report back to the HPB.

Commissioner Thomas appreciated the liaison, but he felt it was one-way communication. He asked if the Planning Commission has ever had a liaison to the HPB to see what they do. Assistant City Attorney McLean stated that the Planning Commission could appoint a liaison if they wished. Commissioner Thomas commented on the number of times situations have occurred in the review process, even with the expertise of Dina Blaes, that he has questioned as an architect involved in historic restorations. Commissioner Thomas suggested an educational process to better understand how some things are approved in certain conditions. Assistant City Attorney recommended a joint work session with the Planning Commission and the HPB to discuss those issues. Chair Wintzer asked if it was possible to schedule a joint work session with the HPB prior to a Planning Commission meeting. Director Eddington thought the HPB would be amenable to a joint work session. The HPB also has new members and it would be a good opportunity for everyone to get acquainted. Commissioner Thomas suggested that Dina Blaes be invited to attend the work session.

Chair Wintzer opened the public hearing.

Jeff Brille, was concerned about the redundancy of another review body and the potential of creating additional delays. He agreed with the concerns expressed by the Planning Commission regarding the qualifications of the HPB and their ability to streamline the process. He supported reconstruction but he had reservations about disassembly. In a community where they are trying to be sustainable and productive with energy use, disassembly turns into an intensive process, particularly for mobilizing portions of the structure on and off site. If contractors have facilities in the Valley, transporting up and down the canyon creates energy waste, which would be the case with disassembly.

Ruth Meintsma stated that she had spoken with Planner Sintz about adding additional language to the definition of disassembly. Ms. Meintsma remarked that disassembly in itself is a course process typically done by hard labor. She felt that if the definition was not clear, disassembly could involve babysitting by the Planning Staff. Ms. Meintsma read her suggested language to the definition. "...for the purpose of accurately assembling, and for the purpose of accurately reproducing the placement, scale, and dimensions of the historic elements (windows, doors and porch posts). Ms. Meintsma noted that those words are used in the historic design guidelines under B-2, Exterior Walls. She has seen instances where the forms and panels were saved, but the porch posts that were supposed to be saved were lost. In those cases the porch posts were recreated but they were not like the original. Ms. Meintsma remarked that the lost details take away from the historic.

Mike Sweeney echoed the comments regarding a second layer of review. He pointed out that the City already has a knowledgeable Planning Group, and to add another layer that would require a property owner to spend more time going through the process makes no sense. Mr. Sweeney thought the Staff was more than capable of answering the questions and addressing the issues, and he believed the decision would be the same. It would just take longer and cost more money to reach that decision. Mr. Sweeney preferred to see the process streamlined rather than expanded.

Mary Cook stated that she did not want to cause problems for property owners; however, a friend was visiting Park City and they were walking up Park Avenue. Her friend had lived in Park City many years ago and they were talking about building that had been changed or taken down. The

very items being discussed, such as trim, porch posts, shape of windows, etc, were the same things her friend immediately noticed had been removed and replaced with plastic or machined trim. Her friend's commented that you cannot have a historic district if you don't preserve those elements that are the hallmark of that historic time period. Ms. Cook could see arguments on both sides of the issue, but she felt it was important for the Planning Commission to hear her story.

Helen Alvarez stated that her comments were not related to historic preservation or elements or disassembly. She agreed with Commissioner Thomas that the City should not be layering on boards. The Planning Staff and the Legal Staff are paid to make decisions, and the Planning Commission volunteers hours and hours discussing those decisions. As a citizen, she did not feel protected when volunteer citizens assemble as a board to make decisions that should be made by the elected officials and their appointed Planning Commission. Ms. Alvarez urged the Planning Commission not to grant the Historic Preservation Board the right to review projects within the Historic District. She strongly favored professional review and she asked them to consider that. The City is surrounded by competent professionals to serve the citizens. She was not opposed to a volunteer Board in an advisory capacity, but she was strongly opposed if they are placed in a decision making capacity. Ms. Alvarez knows of situations where citizen boards, without the benefit of legal counsel, have said things that could be strongly challenged if the decision went to court. She did not want to be unprotected from that kind of legal action. Ms. Alvarez urged the Planning Commission to assume their responsibility as professionals and not grant their authority or the authority of the Planning Staff to a board.

Chair Wintzer closed the public hearing.

Commissioner Savage understood that the amendment being reviewed was mandated by the City Council. In accordance with that mandate, the Planning Staff recommended a modification to the LMC that the Planning Commission was being asked to review and approve. Commissioner Savage assumed that the Planning Commission was not in a capacity to make a decision as to whether or not this was an appropriate decision on behalf of City Council. They could only determine whether the proposed Land Management Code amendment supports the recommendation from City Council.

Assistant City Attorney McLean explained that as part of the joint visioning in February the City Council gave Staff direction to make the proposed changes to the Land Management Code. The Planning Commission is responsible for their own recommendations and if they disagree with the City Council they need to stand behind their opinion. When forwarding their recommendation, it is important for the Planning Commission to articulate why they disagree so the City Council has the benefit of that information. Ms. McLean clarified that direction from the City Council does not abdicate the Planning Commission from their duties.

Commissioner Savage stated that he was emboldened by Ms. Alvarez and her comments. If there is a way to facilitate a more efficient process for construction using the existing Staff and the existing mechanisms, he would support that approach. Commissioner Savage believed the recommended modification was a consequence of one incident that created a tumult, and it did not justify adding another layer to an already cumbersome approval process. Commissioner Savage opposed the amendments to the LMC.

Commissioner Worel concurred. She completely supports streamlined processes. Commissioner Worel stated that the HPB has the opportunity as citizens to attend public hearings and make their opinions known, particularly if they have a liaison to the Planning Commission. She believed adding another layer of review would be difficult.

Assistant City Attorney McLean stated that under the current process, if someone applies for a reconstruction it goes to the Planning Department. If the Staff decision is appealed, it would go to the HPB. Director Eddington clarified that the HPB is an appeal body in their current capacity. Ms. McLean pointed out that in those cases, the decision would not come before the Planning Commission. If the Staff's decision is not appealed, the project would move forward without going to another body. Ms. McLean remarked that the proposed amendment would require a public hearing for those reconstructions. If that was appealed it would go to the Board of Adjustment.

Planner Sintz noted that existing LMC criteria must be met. There are four criteria under disassembly and three criteria under reconstruction. Planner Sintz explained the current approval process for disassembly and reconstruction. She clarified that the only difference was that the proposed amendment takes the approval away from the Planning Department and puts it in the hands of the Historic Preservation Board.

Chair Wintzer asked if the Planning Staff needed another layer of review or if they felt they could handle it on their own. Director Eddington replied that the process works well with the Planning Staff. There were issues with a recent reconstruction; however, he did not believe the City Council or the HPB thought a mistake was made. The problem was a lack of public involvement with the reconstruction on Park Avenue. During visioning the City Council and some HPB members thought a public forum at the HPB level would inform the neighbors of the project and what to expect. Director Eddington stated that the Planning Staff was more than capable of architectural review and/or interpreting the guidelines and City Codes. The proposed amendment provides public opportunity that would not occur in the Staff review process.

City Council Member, Alex Butwinski, stated that the City Council is always concerned about not adding another layer of bureaucracy. He clarified that the issue resulted from 657 Park Avenue and the City Council was interested in finding a better way to keep the public informed. Mr. Butwinski agreed with Ms. McLean that the Planning Commission has the purview to offer a different opinion. However, he asked the Planning Commission to consider the potential in the Historic District for many things falling through the cracks, particularly with regard to reconstruction. The amendment would heighten awareness of the Historic preservation they were striving to maintain in Old Town. Mr. Butwinski remarked that less bureaucracy is generally better, except in this case.

Chair Wintzer stated that having another review board would take the pressure off the Staff from always being the ones to interpret the Code, and it would provide them with back-up. Chair Wintzer favored the amendment.

Commissioner Savage stated that if the Staff wanted to involve the HPB in a given set of decisions, they should have that discretion. However, he was not in favor of compelling the Staff to involve the HPB. Assistant City Attorney McLean thought it was important to have a clear process in place. Ms. McLean pointed out that the HPB is an appeal Board for Staff decisions, and therefore, it would be

difficult for the Staff to use the HPB in an advisory capacity. It is not a viable option because of how the Code is structured.

Commissioner Savage reiterated his objection to changing an entire process because of one incident that generated public outcry, particularly since many other applications were successfully reviewed and approved under the same process.

Planner Sintz pointed out that the application on Park Avenue was under the old historic guidelines and was not subject to the new noticing requirements.

Commissioner Thomas agreed with Helen Alvarez. As an architect he was more comfortable with the Staff review procedure and process. He liked the professionalism of the Staff and the fact that the Planning Department has an architect on Staff. He was not comfortable adding another layer to the process. He agreed that there was an obvious hiccup on Park Avenue and they need to consider that in future discussions about the General Plan and the LMC. He believed they could reinforce the design process in the Historic District and he looked forward to having that discussion at a later date. Commissioner Thomas stated that he could not support the recommendation.

MOTION: Commissioner Thomas moved to forward a NEGATIVE recommendation to the City Council for approval of the Land Management Code Amendment. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 7:55 p.m.

Approved by Planning Commission: _____3