

# Planning Commission Staff Report



**Subject:** 30 Sampson Avenue  
**Project #:** PL-12-01487  
**Author:** Kirsten Whetstone, Senior Planner  
**Date:** December 10, 2014  
**Type of Item:** Administrative – Steep Slope Conditional Use Permit

## Summary Recommendations

Staff recommends the Planning Commission review a request for a Steep Slope Conditional Use Permit for a new single-family house located at 30 Sampson Avenue, conduct a public hearing, and consider approving the Steep Slope CUP. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.

## Description

**Applicant/Owner:** Michael Jorgensen  
**Architect:** Jonathan DeGray  
**Location:** 30 Sampson Avenue  
**Zoning:** Historic Residential - Low (HRL)  
**Adjacent Land Uses:** Residential and vacant land  
**Reason for Review:** Construction of structures greater than 1,000 sf on a steep slope requires a Conditional Use Permit

## Proposal

This application is a request for a Steep Slope Conditional Use Permit for a new single family house to be located at 30 Sampson Avenue (see Exhibits A and B). The 7,088 sf lot is currently vacant and located within the Historic Residential Low (HRL) Zoning District. The HRL Zone requires that any new construction 1,000 square feet or greater, on slopes exceeding 30%, first obtain a Conditional Use Permit for steep slope construction prior to the issuance of a building permit. The subdivision plat notes allow a maximum house size (excluding basement areas and 400 sf of the garage) of 3,000 sf. The maximum house size proposed is 2,894 sf, excluding all basement areas and 400 sf of the garage. The total house construction consists of 4,336 sf, including all above and below grade areas, but excludes the entire 552 sf garage. Total gross construction is 4,888 sf including house and garage.

## Background

On January 5, 1995, the City Council approved the "30, 40, and 50 Sampson Avenue Amended Plat" also known as the Millsite Supplemental Plat Amended Subdivision, which was a combination of 13 whole and partial lots, and a portion of "Utah Avenue" within the original Millsite addition to Park City Subdivision Plat into three lots. The Plat was recorded with a note that limited the "maximum size for residential structures" to 3,000 square feet for Lots 1 and 3, and 3,500 square feet for Lot 2. The conditions of approval reflect that a 400 square foot "credit" for garages is allowed (see Exhibit C).

This application is for Lot 3 of the Millsite Supplemental Plat Subdivision, which is a 7,088.4 square foot lot.

Maximum house size excludes any floor area that meets the definition of a basement (below final grade). This was clarified in a March 30, 1998, letter written by Richard E. Lewis, acting Community Development Director, to the owners of Lots 1, 2, and 3. The letter clarified that the maximum size for residential structures excludes basements as defined by the LMC. The letter also clarified 400 square feet of garage area is exempt from the maximum house size calculations. This letter is attached hereto as Exhibit D.

On February 14, 2012, the City received an application for a Conditional Use Permit (CUP) for "Construction on a Steep Slope" at 30 Sampson Avenue. The property is located in the Historic Residential Low (HRL) District. On April 9, 2012, the application was deemed "complete" and an initial public hearing was conducted by the Planning Commission on August 22, 2012.

In the original application, the applicant proposed a sub-basement level entrance that connected underground to the garage and elevator, however it was determined by Staff that such a proposal would violate Section 15-2.1-5 (Building Height – Maximum of three [3] stories) of the LMC that was in effect at the time of submittal. The applicant revised the plans to show a detached garage and a subterranean walk-way (tunnel) leading to an elevator, which connected to an outside patio area but detached from the house. Because the garage was not attached to the house, it did not violate the three (3) story height restriction that was in the code at the time of the application. The revised three story submittal was reviewed by the Planning Commission on November 28, 2012, December 12, 2012, February 27, 2013, and finally on April 10, 2013.

On April 10, 2013, the Planning Commission denied the Conditional Use Permit application for 30 Sampson. Details of the application and meetings are found in the April 10, 2013 Staff Report (Exhibits E and F). At the April 10<sup>th</sup> meeting, the Commission requested Planning Staff prepare Findings of Fact and Conclusions of Law consistent with the April 10<sup>th</sup> discussion and unanimous vote to deny (Exhibit B-minutes). These Findings and Conclusions were ratified by the Planning Commission on June 26, 2013 (Exhibit G).

On July 3, 2013, the applicant submitted to the City recorder, within the required ten (10) days, an appeal of the Planning Commission decision (Exhibit H). On August 5, 2013, the applicant requested a continuation of the appeal in order to submit a request for an advisory review of the Planning Commission decision to the State Ombudsman. Staff agreed to continue the appeal to a date uncertain and the applicant submitted a request for Advisory Opinion from the State of Utah Office of Property Rights Ombudsman (Advisory Opinion).

On March 28, 2014, Planning Staff received a copy of the Advisory Opinion (Exhibit I) and after reviewing the document scheduled a meeting with the applicant to discuss the CUP application and the appeal. At the meeting, the Applicant indicated he was willing to make some additional revisions to the application to address design issues raised by the Planning Commission related to the exterior elevator element, amount of paving, as

well as a redesign of the garage area. The applicant proposed to revise the plans; similar to what had been initially submitted, to address concerns the Planning Commission had with the design. The applicant understood that the redesign would require a variance from the Board of Adjustment to the three story LMC requirement. The applicant stipulated to remand of the appeal application to the Planning Commission and recognized that there would be a delay of the Planning Commission hearing on the remand to allow time for the Board of Adjustment to consider a variance application.

On July 31, 2014, the City Council, based on the Ombudsman's advisory opinion, the applicant's stipulation and Staff's recommendation, remanded the appeal to the Planning Commission to reconsider the Steep Slope CUP application (Exhibit J). The Council found the Planning Commission was the appropriate review body for reconsideration of the application based on information presented by the Ombudsman. In addition, the remand allowed the applicant to seek a variance to the three story restriction and depending on the outcome of that variance request, to revise the Steep Slope CUP application to include the proposed revisions for Planning Commission review.

On July 7, 2014 the applicant submitted a Variance application requesting relief from the LMC requirement (under the vested version of the code from the time of the application that "a structure may have a maximum of three (3) stories" based on a hardship created by the steepness of the lot, the hour-glass configuration of the existing platted lot, and the forty foot (40') change in elevation between the street and upper building pad area.

On October 7, 2014, the Board of Adjustment (BOA) approved the applicant's request for a variance to the three story requirement (Exhibit K). The variance allowed the applicant to redesigned the plans and propose the underground connection between the garage at the front of the lot and the main house at the rear of the lot, allowing the elevator to be constructed within the main house.

Following the October 7, 2014, BOA meeting, the applicant revised the Steep Slope CUP application (Exhibit A) to include the underground connection and interior elevator, decreased the amount of paving to increase the landscaped area at the front of the lot, and redesigned garage.

### **Purposes of the HRL District**

The purpose of the Historic Residential Low-Density (HRL) District is to:

- (A) Reduce density that is accessible only by substandard Streets so these Streets are not impacted beyond their reasonable carrying capacity,
- (B) Provide an Area of lower density Residential Use within the old portion of Park City,
- (C) Preserve the character of Historic residential Development in Park City,
- (D) Encourage the preservation of Historic Structures,

(E) Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods.

(F) Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment, and

(G) Define Development parameters that are consistent with the General Plan policies for the Historic core.

### **Analysis**

This application is a request for a Conditional Use Permit for construction of a new single family dwelling including an attached garage and underground circulation tunnel that connects the garage to the main house. Because the total proposed construction exceeds 1,000 square feet and is located on a slope greater than thirty percent (30%), the applicant is required to file a CUP application for review by the Planning Commission, pursuant to LMC § 15-2.1-6. A Historic District Design Review (HDDR) application is being reviewed concurrently by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009. The HDDR has not yet been approved.

The applicant is requesting approval of a Steep Slope CUP for a revised application that takes into consideration a variance to the LMC three (3) story limitation that applied to this application at the time of the original submittal (February 14, 2012). The revised plans propose a four (4) story house consistent with the plans reviewed by the Board of Adjustment in granting the variance (Exhibit A). The house includes a garage level (that includes the circulation tunnel and elevator), a basement level fully below grade under the main house, a main first story, and a top second story. The design complies with conditions of the variance requiring a design that has the perception of three (3) stories.

The garage is connected to the house by a subterranean tunnel and an elevator located within the main house. The proposed house is located on the upper building pad of the hour glass shaped lot. The proposed house complies with all required setbacks, building heights, required articulation, four foot (4') allowance for change of grade, and allowed retaining wall heights of the HRL zone. The proposed house contains a total of 4,336 sf of area, including all below grade and above grade areas but excluding the entire 552 sf garage. Gross construction area is 4,888 sf.

The proposed building footprint is 2,179 square feet, including the house, entry area, and tunnel. The total maximum allowed footprint per the LMC is 2,355.5 square feet, based on lot size. The area of the lot is 7,088.4 square feet.

The proposed house size (floor area minus basement and allowance for the garage) is 2,894 sf and complies with the Millsite Reservation Supplemental Plat note that restricts the maximum house size to 3,000 square feet (this excludes all basement areas as well as 400 sf of the 552 sf garage).

The lowest floor (garage level) contains 1206 sf. This includes the 552 sf of the entire garage (400 sf is exempted from house size, 152 sf is included in house size), 276 sf of

the garage entry circulation area that is above grade and 378 sf that is the tunnel/connector that is below grade. The basement level (under the main house) contains 1,216 sf of floor area (all below grade). The lower level (above the basement) contains 1,230 sf of floor area (all above grade) and the main level contains 1,236 sf of floor area (all above grade). The proposed basement level meets the basement definition found within LMC Section 15-15-1 and is fully below final grade. The garage level tunnel/connector is below grade and is 378 sf. The garage level circulation area of 276 sf is above grade and is included in the maximum house size.

Below is an analysis of each floor and accounts for the total square footage of the entire project:

<b>Floor</b>	<b>Proposed floor area</b>
3 <sup>rd</sup> Story	1,236 sf - Main (top) Level
2 <sup>nd</sup> Story	1,230 sf - Lower Level
1 <sup>st</sup> Story	1,216 sf – Basement Level (below ground)
Garage Story	1,206 sf – includes the following: 552 sf- Total Garage (400 sf is exempted from house size, 152 sf is included in house size) 276 sf- Garage level circulation area – above grade 378 sf- Connector/Tunnel area – below grade
Overall living area (excluding entire 552 sf garage)	4,336 sf (1236 + 1230 + 1216 + 276 + 378)
Overall house size (excluding all basement areas and 400 sf of the 552 sf garage)	2,894 sf (1236 + 1230 + 152 + 276)  (this does not include 1216 + 400 + 378)
Total sf of construction	4,888 sf (4336 + 552 entire garage)

Of the 4,888 total square feet of construction, approximately 40% is below grade. The total living space is 4,336 sf, including all basement areas, tunnel, and garage circulation but excluding the garage. The above ground square footage equates to sixty percent (60%) of the total building size with the remaining 1,970 sf of building area located underground (a portion of the garage is located below grade). The total house size square footage (excluding the 400 sf garage allowance and all basement areas) is 2,996 sf which is compliant with the 3,000 sf maximum house size per the 1998 clarification letter written by Community Development Director Lewis. During the initial review of the Conditional Use Permit, staff provided a house size analysis of the

surrounding area and found that the proposed house design is consistent with houses in this neighborhood (Exhibit L).

The house is setback between 70' and 110' from Sampson Avenue with the garage setback between 15' and 30' from the street. Per Section 15-4-17 (Supplemental Regulations – Setback Requirements for Unusual Lot Configurations), all lots with more than four sides require a “Setback Determination” by the Planning Director. On October 11, 2011, Planning Director, Thomas Eddington determined that the lot has eight sides, and made the following setback determination for the subject property:

Setback Determination	
Required Setbacks	Proposed Setbacks
1. Front Yard – 15 feet (10 feet per LMC)	Front – 15 feet (complies)
2. Side Yard south property line to “tapper” area (see diagram below) – 5 Feet (3 to 5 feet per LMC)	Side-yard south – 5 feet (complies)
3. Side Yard north property line to the southwest corner of Lot 46, Block 78 of the Subdivision #1 of the Millsite Reservation – 5 feet (5 feet per LMC)	Side-yard north – 5 feet (complies)
4. Combined Side Yards (north and south) of main portion of lot – 18 feet total, south-side shall be 8 feet; north-side shall be 10 feet (6 to 10 feet per LMC)	Combined north/south side-yard for main body of lot – 18 feet total (complies)
5. Rear Yard – 15 feet (10 feet per LMC)	Rear yard – 15 feet (complies)
6. Side Yard north property line – 10 feet (5 feet per LMC)	Side-yard north for main portion - 10 feet (complies)
7. Side Yard west property line – 10 feet (10 feet per LMC)	Side-yard west property line – 10 feet (complies)



Staff made the following LMC related findings:

Requirement	LMC Requirement	Proposed
Building Footprint	2,355.5 square feet (based on lot area) <u>maximum</u>	2,179 square feet, <u>complies.</u>
Maximum House Size (excludes basement and 400 sf garage allowance)	No LMC Requirement – 3,000 square feet per plat note	2,894 square feet (4,888 sf gross construction minus 400 sf garage allowance, minus entire 1,216 sf basement level, and minus 378 sf of below grade tunnel/connector) <u>complies.</u>
*Front and Rear Yard	10 feet minimum (20 feet total) 15 feet per Planning Director	15 feet (front), <u>complies.</u> 15 feet (rear), <u>complies.</u>
*Side Yard	5 feet minimum, (10 feet total)	*Various – see notes
Height	27 feet above existing grade, <u>maximum.</u>	Various heights all less than 27 feet, <u>complies.</u>
Number of stories	A structure may have a maximum of three (3) stories, unless a variance is granted by the Board of Adjustment based on criteria state in LMC Chapter 15-10-8 (C).	4 stories, <u>complies per variance granted by the Board of Adjustment on October 7, 2014.</u>
Final grade	Final grade must be within four (4) vertical feet of existing grade around the periphery of the structure.	4 feet or less, <u>complies.</u>
Vertical articulation	A ten foot (10') minimum horizontal step in the downhill façade is required for the third story unless the 1 <sup>st</sup> story is completely below finished grade.	Third story is stepped back between 45' and 65' from the front façade of the structure, <u>complies.</u>
Roof Pitch	Roof pitch must be between 7:12 and 12:12 for primary roofs. Non-primary roofs may be less than 7:12.	7:12 for all primary roofs with a minor “green roof” for the garage between the primary roof pitch, <u>complies.</u>
Parking	Two (2) off-street parking spaces required	2 spaces within the garage, <u>complies.</u>

\* Planning Director Determination of setbacks based on the fact that the lot has more than four sides. Planning Director can require greater setbacks in this instance.

The subject lot was created by the Millsite Supplemental Plat Amended Subdivision, which was a combination of 13 whole and partial lots, and a portion of “Utah Avenue” within the original Millsite addition to Park City Subdivision Plat, re-plated three (3) single family lots. The plat amendment reduced the overall density in terms of dwelling

units on the substandard streets consistent with the purpose statements for the HRL zone.

LMC § 15-2.1-6 provides for development on steep sloping lots in excess of one thousand square feet (1,000 sq. ft.) within the HRL District, subject to the following criteria:

Criteria 1: Location of Development.

Development is located and designed to reduce visual and environmental impacts of the Structure. **No unmitigated impacts.**

The proposal is for a new single family dwelling with a proposed footprint of 2,179 square feet. The proposal includes a garage with two separate garage doors angled away from a common wall and set back 15' to 25' from the front property line. The garage is visually separated from the main portion of the house by 28'. The main portion of the house is located approximately 80 feet from the street. The lot is wide at the street level but narrows at about 65' from the street before opening up to the most substantial portion of the lot in an hour glass shape. The lot was platted in this configuration in 1995. Most of the buildable area is located on the upper portion of the lot. It is not physically possible to construct a driveway that would meet the LMC requirements (maximum slope to fourteen percent (14%) as measured from the street (Sampson Avenue) in order to reach the upper portion of the lot which is why the design includes a garage at the street, a subterranean tunnel connector element, and an elevator to provide access to the main portion of the house. The factors contributing to the location of the building are the shape and slope of the lot, as it exceeds thirty percent (30%) for much of the lot.

The garage and main portion of the home will appear as dis-connected structures because the subterranean connection is completely below final grade. Proposed lot coverage is approximately 30 percent (%) of the overall lot. The applicant is proposing to plant forty (40) new trees on the property. Existing vegetation on the lot consists of grasses and shrubs, some of which will be disturbed, however there are no large native trees or evergreens identified on the property. The level of disturbance of existing vegetation will be mitigated by the planting of new vegetation as shown on the landscape plan (Exhibit A).

Criteria 2: Visual Analysis.

The applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points to determine potential impacts of the project and identify potential for screening, slope stabilization, erosion mitigation, vegetation protection, and other items. **No unmitigated impacts.**

The applicant submitted a visual analysis; including renderings showing a contextual analysis of visual impacts (see Exhibit B). The proposed structure cannot be seen from the key vantage points as indicated in the LMC Section 15-15-1.283, with the exception of a cross canyon view. The cross canyon view contains a back drop of a two (2) story building with a garage building below. Visual impacts from this vantage point are mitigated by the amount of vegetation surrounding this area and proposed to be planted

on the subject property. The garage and main house are separated by about thirty feet (30').

Criteria 3: Access.

Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Common driveways and Parking Areas, and side Access to garages are strongly encouraged, where feasible. **No unmitigated impacts.**

The proposed design incorporates a driveway from Sampson Avenue. Unlike other properties on the “up-hill” side of Sampson, the applicant will not need a retaining wall, and instead proposes a gentle slope away from the garage and parking area to the street. The driveway access will be located on the south side of the lot where the finished grade of the street and the natural grade of the lot are closest in elevation. This location will reduce the need for retaining walls and other stabilization usually associated with development on Sampson Avenue. The access points and driveways are designed to minimize Grading of the natural topography and reduce the overall Building scale.

The driveway was revised upon review of the certified survey to confirm that the slope will not exceed fourteen (14%). The proposed driveway has a maximum slope of twelve and a half percent (12.5%). The applicant is proposing a two-car garage and has removed the previously proposed additional parking pad to the north of the garage. The LMC requires two off-street parking spaces. Sampson Avenue is an extremely narrow street, there is no available on-street parking, the front setback to the garage allows for some off-street guest parking.

Criteria 4: Terracing.

The project may include terraced retaining Structures if necessary to regain Natural Grade. **No unmitigated impacts.**

No terracing is proposed. The applicant is proposing to build on the two less steep areas of the lot, with a subterranean (underground) tunnel connecting the garage to the house. This will require some initial grading and site stabilization (not terracing), but the end result will be that the grading between the garage and the house will be put back to its natural state as a slope.

Criteria 5: Building Location.

Buildings, access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and provide variation of the Front Yard. **No unmitigated impacts.**

The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. The house sits on the up-hill side of the lot where there is area with less than 30% slope on which to build. The existing eight-sided lot was approved 1995 as a recorded subdivision lot.

The lot is has an hourglass shape with most of the buildable area located in the beyond the midpoint of the lot. The street-side of the lot has limited building area available which has dictated the location of the proposed home. The site design, reduced building footprint (smaller than what is allowed per code), and increased setbacks maximize the opportunity for open Areas to be landscaped following re-grading of the lot.

#### Criteria 6: Building Form and Scale.

Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Commission may require a garage separate from the main Structure or no garage. **No unmitigated impacts.**

The top floor of the home walks out to the existing grade of the top of the lot, and the main floor walks out to the existing down-hill side of the lot. There is a minimal retaining wall on each side of the home to differentiate the rear and front yard. The Structures step with the Grade and are broken in to a series of individual smaller components Compatible with the District.

The garage is separated from the house by a subterranean tunnel and is subordinate to the mass and design of the main house and this separation decreases the perceived bulk of the Main Building. The connection between the garage the main house is completely underground and not visible. The vertical circulation (elevator and stairs) are incorporated within the main house. Only two stories of the main house are exposed, with the basement completely underground with no portion thereof expose.

The main level (top story) consists of approximately 1,236 sf. The exposed massing steps with the hillside. The lower level contains approximately 1,230 square feet which is also above ground. The remaining area, minus most of the garage area is located below ground. The 552 sf garage itself is partially underground and steps in height between 9' and 16' in building height from existing grade, including a small flat green roof area proposed between the two smaller garage masses.

#### Criteria 7: Setbacks.

The Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures. **No unmitigated impacts.**

The proposed location of the home on the property, including the placement of the garages that mass at an angle to each other, as well as to the street, avoids creation of a "wall effect" along the street. The main house is setback between 75' and 110' from Sampson Avenue with the garage setback between 15' and 30' from the street. With the revised plans the elevator is incorporated into the main house and does not create the awkward massing between the garage and the house of the previous plan.

### Criteria 8: Dwelling Volume.

The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.

#### **No unmitigated impacts.**

The proposed house and garage are horizontally and vertically articulated and broken into compatible massing components consistent with the lot size, building height, and setbacks. The design includes two buildings that appear to be detached due to the subterranean circulation tunnel. The design includes the increased setbacks (per the Planning Director's Setback Determination per LMC Section 15-4-17) that offer variation in footprint and the height of the garage element is reduced with a green flat roof element to decrease visual mass at the street. Much of the volume of the house is below final grade or stepped back from the street. The proposed footprint is 2,179 sf. The proposed house size is 2,894 sf. The design does not exceed the maximum house size of 3,000 square feet, restricted by the recorded plat, or the maximum building footprint of 2,355 sf as allowed by the lot size.

### Criteria 9: Building Height (Steep Slope).

The maximum Building Height in the HRL District is twenty-seven feet (27'). The Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing residential Structures. **No unmitigated impacts.**

The proposed house meets the twenty-seven feet (27') maximum building height requirement measured from existing grade. The height of garage elements ranges between 9' and 16' from existing grade. The unique shape of the lot dictates the design of the home, with the garage portion close to the street, and the main house situated further up the hill where the vast majority of the buildable area exists. Portions of the house are less than 27' in height, including the garage element located closest to the street.

The tallest portion of the house is on the front (uphill) side of the lot facing the street view located a minimum of 80' from the street. The Board of Adjustment granted a variance to the three (3) story height limit that was in effect at the time of submittal due to hardships created by the steepness of the lot, the hour-glass shape, and the forty feet (40') of elevation difference between the street and the upper building pad. If the application had been submitted under the current code, a similar variance to the 35' overall building height would likely have been requested due to hardships imposed by these same factors.

### **Process**

Approval of this application constitutes Final Action that may be appealed to the City Council following the procedures found in LMC § 15-1-18. Approval of the Historic District Design Guideline compliance is noticed separately and is a condition of building permit issuance.

### **Department Review**

This project has gone through an interdepartmental review. The Building Department determined that due to the narrow lot configuration between the front and rear, a construction mitigation plan will be required prior to construction that details how the applicant will protect and stabilize all adjacent property lines so that disturbance of other properties will not occur. This shall be a condition of approval.

### **Notice**

On November 25, 2014, the property was posted and notice of the Steep Slope Conditional Use permit request was mailed to property owners within 300 feet of the property in accordance with requirements of the Land Management Code. Legal notice was published in the Park Record on November 22, 2014, according to requirements of the Code.

### **Public Input**

Staff has not received any public input related to the most recent public notification. Neighboring property owner, Debbie Schneckloth, met with Staff on three occasions prior to the April 10, 2013, Planning Commission meetings to raise various concerns, including:

- The need for retaining walls between her property and the subject property – Debbie is concerned the proposal inadequately addresses on-site retention.
- Incorrect driveway grades – Debbie is concerned that the plans do not accurately reflect existing grades and is incredulous that a driveway that starts at Sampson Avenue with a rise of 10% can be achieved. She is worried that the architect's drawing are inaccurate, and the grade at Sampson is greater than shown on the plans.
- Future subdivision plans – Debbie is concerned that the applicant may try and acquire more property to the west and attempt to subdivide the lot at some point in the future creating a frontage on King Road (there is none at this point), and that the plans are designed in such a manner that will accommodate future subdivision plans.

The applicant has revised the site plan, grading plan, and landscape plan to address these concerns (see Exhibit A).

### **Alternatives**

- The Planning Commission may approve the Steep Slope Conditional Use Permit for 30 Sampson Avenue as conditioned or amended, or
- The Planning Commission may deny the Steep Slope Conditional Use Permit and direct staff to make Findings for this decision, or
- The Planning Commission may request specific additional information and may continue the discussion to a date certain (January 14, 2015 is the next Planning Commission meeting).

### **Significant Impacts**

There are no unmitigated significant fiscal or environmental impacts from this application.

### **Consequences of not taking the Suggested Recommendation**

The construction as proposed could not occur and the applicant would have to revise the plans or the applicant could appeal the Planning Commission decision to the City Council.

### **Recommendation**

Staff recommends the Planning Commission review a request for a Steep Slope Conditional Use Permit for a new single-family house located at 30 Sampson Avenue, conduct a public hearing, and consider approving the Steep Slope CUP. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.

### **Findings of Fact**

1. The property is located at 30 Sampson Avenue.
2. The property is within the Historic Residential (HRL) District and meets the purposes of the zone.
3. The property is Lot 3 of the Millsite Reservation Supplemental Plat, which was recorded in 1995.
4. The Lot area is 7,088.4 sf.
5. A Historic District Design Review (HDDR) application is currently being reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
6. On February 14, 2012, the City received an application for a Conditional Use Permit (CUP) for "Construction on a Steep Slope" at 30 Sampson Avenue. The property is located in the Historic Residential Low (HRL) District.
7. On April 9, 2012, the application was deemed "complete" and an initial public hearing was conducted by the Planning Commission on August 22, 2012.
8. The February 14, 2012, application included a sub-basement level entrance that connected underground to the garage and elevator, however it was determined by Staff that such a proposal would violate Section 15-2.1-5 (Building Height – Maximum of three [3] stories) of the LMC that was in effect at the time of submittal. The applicant revised the plans to show a detached garage and a subterranean walk-way (tunnel) leading to an elevator, which connected to an outside patio area in front of the house at the upper portion of the lot. Because the garage was not attached, it did not violate the 3 stories height restriction in the code at the time of the application. This three story submittal was reviewed by the Planning Commission on August 22, 2012, November 28, 2012, December 12, 2012, February 27, 2013, and finally on April 10, 2013.
9. On April 10, 2013, the Planning Commission denied the Conditional Use Permit application for 30 Sampson. At the April 10<sup>th</sup> meeting, the Commission requested Planning Staff prepare Findings of Fact and Conclusions of Law consistent with the April 10<sup>th</sup> discussion and unanimous vote to deny. These Findings and Conclusions were ratified by the Planning Commission on June 26, 2013.
10. On July 3, 2013, the applicant submitted to the City recorder, within the required ten (10) days, an appeal of the Planning Commission decision.
11. On August 5, 2013, the applicant requested a continuation of the appeal in order to submit a request for an advisory review of the Planning Commission decision to the State Ombudsman. Staff agreed to continue the appeal to a date uncertain and the

applicant submitted a request for Advisory Opinion from the State of Utah Office of Property Rights Ombudsman (Advisory Opinion).

12. On March 28, 2014, Planning Staff received a copy of the Advisory Opinion and after reviewing the document scheduled a meeting with the applicant to discuss the CUP application and appeal. At the meeting, the Applicant indicated he was willing to make some additional revisions to the application to address design issues raised by the Planning Commission related to the exterior elevator element, amount of paving, as well as a redesign of the garage area. The applicant proposed to revise the plans; similar to what had been initially submitted, to address concerns the Planning Commission had with the design. The applicant understood that the redesign would require a variance to the three story LMC requirement.
13. On July 31, 2014, the City Council remanded the appeal to the Planning Commission to reconsider the Steep Slope CUP application. The Council found the Planning Commission was the appropriate review body for re-consideration of the application based on information presented by the Ombudsman. In addition, the remand allowed the applicant to seek a variance to the three story restriction and depending on the outcome of that variance request, to revise the Steep Slope CUP application to include the proposed revisions for Planning Commission review.
14. July 7, 2014 the applicant submitted a Variance application requesting relief from the LMC requirement that "a structure may have a maximum of three (3) stories" based on a hardship created by the steepness of the lot, the hour-glass configuration of the existing platted lot, and the forty foot (40') change in elevation between the street and upper building pad area.
15. On October 7, 2014, the Board of Adjustment (BOA) approved the applicant's request for a variance to the three story limitation of the LMC with the following conditions of approval: a) The vertical circulation elevator and stairs shall be constructed within the house and b) The house shall be constructed to appear as three (3) stories on the exterior.
16. The variance allowed the applicant to redesign the plans and amended the application to propose an underground connection between the garage at the front of the lot and the main house at the rear of the lot, allowing the elevator to be constructed within the main house. The proposed house includes four stories, including a garage level at the street, a basement completely below final grade under the main house, a lower level, and a main level.
17. Following the October 7, 2014, BOA meeting, the applicant revised the Steep Slope CUP application to include the underground connection and interior elevator, decreased the amount of paving to increase the landscaped area at the front of the lot, and redesigned garage.
18. The revised Steep Slope CUP subject to this staff report is a proposal for a new single family dwelling with a total living area of 4,336 sf (this includes all basement areas, the tunnel connector, and the garage level circulation area). This does not include the 552 sf garage.
19. The maximum house size allowed for this lot is 3,000 square feet with an additional allowance of 400 square foot for a garage per plat notes on the January 5, 1995; City Council approved Millsite Reservation Amended Plat.
20. The proposed house size is 2,894 sf (4,888 sf total construction minus 1,216 sf basement level, 378 sf of below grade tunnel/connector area, and the 400 sf garage allowance).

21. In 1998 the Community Development Director determined that the 3,000 square foot maximum excludes basements as defined by the LMC. This letter was recorded on the title of the property.
22. An overall building footprint of 2,179 square feet is proposed. Under the current LMC, the maximum allowed footprint is 2,355.5 square feet, based on the total lot area.
23. The applicant submitted a visual analysis, including a model, and renderings showing a contextual analysis of visual impacts.
24. The proposed structure will not be seen from the key vantage points as indicated in the LMC Section 15-15-1.283, with the exception of a cross canyon view from the corner of the Main Street Trolley turn-around (Hillside Ave/Main Street/Daly Ave intersection), which is largely mitigated by existing houses and trees of surrounding lots.
25. The cross canyon view contains a back drop of the hill behind the proposed structure as well as two story houses and garages of neighboring structures.
26. The proposed design incorporates a driveway from Sampson Avenue from the high point of the street to avoid excessive cuts and grading for the proposed driveway.
27. Retaining is necessary around the home on the upper-side of the lot. The plans as shown indicate that there will be no free-standing retaining walls that exceed six feet in height.
28. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography and will leave more than half of the lot undeveloped.
29. The site design, stepping of the building mass, reduced building footprint, and increased setbacks maximize the opportunity for open area and provides additional area for plantings.
30. The applicant is providing the required two (2) off street parking spaces in the garage. There is no on-street parking available on Sampson Avenue due to its narrow width. There is an area in front of the garage that provides an off-street guest parking space due to the increased setbacks to the garage door.
31. The garage (proposed with two separate garage doors angled away from a common wall) is set back 15' to 30' from the front property line and setback from the main portion of the house by about 30'. The main portion of the house is located approximately 70' to 110' back from the street.
32. Approximately 1,790 square feet of total construction is below final grade, which equates to approximately thirty-seven percent (37%) of the overall construction (4,888 sf).
33. The lot has been deemed to have eight (8) different sides, and thus a Planning Director determination for setbacks has previously been determined and calculated as outlined within the analysis section of the report.
34. The design includes setback variations, decreased building footprint, and decreased building heights for the garage and portions of the main house (from HRL allowable standards).
35. The proposed massing and architectural design components are compatible with both the volume and massing of other single family dwellings in the area.
36. The proposed structure does not exceed twenty-seven feet (27') in building height as measured from existing grade.
37. The findings in the Analysis section of this report are incorporated herein.

38. The applicant stipulates to the conditions of approval.
39. The necessary removal of vegetation from the site to accommodate the building will be mitigated by the installation of approximately forty (40) trees, seventy (70) shrubs and other plantings mixed with ground cover. A final landscape plan addressing the removal of existing vegetation and a replacement plan is required prior to the granting of a building permit.
40. The house will appear to be three stories.
41. The vertical circulation elevator and stairs are proposed to be constructed within the house.

### **Conclusions of Law**

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(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**

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. A final utility plan, including a drainage plan, public improvements, and drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
5. A final landscape and vegetation replacement plan shall be submitted for review and approved by the City Planning Department, prior to building permit issuance. Installation of approximately forty (40) trees, seventy (70) shrubs and other plantings mixed with ground cover are necessary to address removal of existing vegetation.
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the 2009 Design Guidelines for Historic Districts and Historic Sites.
7. If required by the Chief Building official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer.
8. This approval will expire on December 10, 2015, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval is applied for in writing before the expiration and is granted by the Planning Director.
9. Plans submitted for a Building Permit must substantially comply with the plans

reviewed and approved by the Planning Commission on December 10, 2014.  
10. All retaining walls within any of the setback areas shall not exceed more than six feet in height measured from final grade.

**Exhibits**

- Exhibit A- Stamped Survey and Revised Plans (site plan, elevations, floor plans, landscape plan, aerial map, and plats)
- Exhibit B- Visual Analysis and photos
- Exhibit C- January 5, 1995 City Council Meeting Minutes for the Millsite Reservation Supplemental Plat.
- Exhibit D- Richard E Lewis letter to property owner(s) regarding the Millsite Reservation Supplemental Plat
- Exhibit E- April 10, 2013, Planning Commission Staff Report
- Exhibit F- April 10, 2013, Planning Commission meeting minutes
- Exhibit G- June 26, 2013, Findings and Conclusions as ratified by the Commission
- Exhibit H- July 12, 2013, Appeal of Planning Commission decision
- Exhibit I- March 28, 2014, Advisory Opinion
- Exhibit J- July 31, 2014, City Council report and minutes regarding remand of the appeal
- Exhibit K- October 7, 2014, Board of Adjustment report and minutes regarding the variance and order to grant variance
- Exhibit L- House size Analysis from previous Staff report

# JORGENSEN RESIDENCE

## HISTORIC DISTRICT DESIGN REVIEW / STEEP SLOPE CONDITIONAL USE APPLICATION SET

### 30 SAMPSON AVENUE PARK CITY, UTAH 84060

CONSULTANTS

#### LEGEND

	BRICK & STONE		OFFICE 116		ROOM NAME
	EARTH		ROOM NUMBER		FLOOR, POINT ELEV.
	CONCRETE		CENTER LINE		CHANNEL
	CONCRETE MASONRY UNIT		ROUND, DIA.		ANGLE
	STEEL (LARGE SCALE)		DETAIL		SECTION CUT, DETAIL
	RIGID INSULATION		BUILDING SECTION		KEYED NOTES
	ROUGH WOOD		WINDOW TYPE		DOOR NUMBER
	BLOCKING		REVISION		INTERIOR WALL ELEV.
	ALUMINUM (LARGE SCALE)		WALL TYPE		
	GRAVEL				
	FINISHED WOOD				
	BATT OR BLOWN INSULATION				
	PLASTER, SAND, GROUT, MORTAR				
	STEEL (SMALL SCALE)				
	BITUMINOUS PAVING				
	PLYWOOD				
	GYPNUM BOARD				

#### CODE ANALYSIS

**APPLICABLE CODES**  
2012 IRC 2012 IBC  
2012 IPC 2012 IMC  
2011 NBC 2012 IFGC  
2009 IBCC 2012 IFC

**OCCUPANCY: R2**

**CONSTRUCTION TYPE: VB**  
BUILDING TO BE FIRE SPRINKLED; CONTRACTOR TO PROVIDE APPROVALS PRIOR TO INSTALLATION.

**ALLOWABLE AREA**  
ABOVE GRADE LIVING AREA: 3,000 SF (PER PLAT APPROVAL)  
400 SF ALLOWANCE FOR GARAGE (PER PLAT APPROVAL)  
MAX. ALLOWED FOOTPRINT AREA: 2,555.5 SF (PER LMC)

**AREA CALCULATIONS**  
GARAGE AREA: 552 SF  
CONNECTOR/TUNNEL AREA: 378 SF  
GARAGE LEVEL CIRCULATION AREA: 276 SF  
BASEMENT LEVEL AREA: 1,216 SF  
LOWER LEVEL AREA: 1,236 SF  
MAIN LEVEL AREA: 1,236 SF  
LOT AREA: 7,088.396 SF  
FOOTPRINT AREA: 2,179 SF

**ABOVE GRADE LIVING AREA**  
LOWER LEVEL AREA: 1,236 SF  
MAIN LEVEL AREA: 1,236 SF  
GARAGE AREA: 552 SF - 400 SF = 152 SF  
GARAGE LEVEL CIRCULATION AREA: 276 SF  
TOTAL AREA: 2,894 SF

**TOTAL LIVING AREA**  
CONNECTOR/TUNNEL AREA: 378 SF  
GARAGE LEVEL CIRCULATION AREA: 276 SF  
BASEMENT LEVEL AREA: 1,216 SF  
LOWER LEVEL AREA: 1,236 SF  
MAIN LEVEL AREA: 1,236 SF  
GRAND TOTAL LIVING AREA: 4,336 SF

#### INDEX TO DRAWINGS

#	SHEET #	SHEET DESCRIPTION
1	Aa	COVER SHEET
2	1of1	TOPOGRAPHIC MAP
		SURVEY
		ARCHITECTURAL
3	A0.1	ARCHITECTURAL SITE PLAN
4	A1.1	GARAGE LEVEL PLAN
5	A1.2	BASEMENT LEVEL PLAN
6	A1.3	LOWER LEVEL PLAN
7	A1.4	MAIN LEVEL PLAN
8	A1.5	ROOF PLAN
9	A2.1	NORTH AND SOUTH ELEVATIONS
10	A2.2	EAST AND SOUTHWEST ELEVATIONS
11	A2.3	WEST ELEVATION
12	A2.4	GARAGE SOUTHEAST AND NORTHEAST ELEVATIONS
13	A2.5	GARAGE AND HOUSE SOUTH ELEVATION
14	A3.1	BUILDING SECTIONS
15	A3.2	BUILDING SECTIONS

#### ABBREVIATIONS

AC	AIR CONDITIONING	F.D.	FLOOR DRAIN	FR.	PAIR
ACQ.	ACOUSTICAL	FD	FOUNDATION	R.D.	ROOF DRAIN
ADD.	ADDENDUM	FIN.	FINISH	REG.	REGULAR
ADJ.	ADJUSTABLE	FL.	FLOOR	R.S.	ROUGH-SAWN
ALLOW.	ALLOWANCE	F.R.	FIRE RATED	RAD.	RADIUS
ALUM.	ALUMINUM	FG.	FOOTING	REPC.	REINFORCING
APPROX.	APPROXIMATE	G.	GAS	REVD.	REWORKED
BD.	BOARD	GI.	GALVANIZED IRON	REV.	REVISED
B.U.	BUILT-UP	GL.	GALV.	RM.	ROOM
B.W.	BOTH WAYS	GR.	GRABER	ROOF.	ROOF OPENING
B.L.C.	BUILDING BLOCK	GR.	GRABER	S.E.P.	SEEP AND ROD
B.K.	BRICK	G.W.B.	GYPNUM WALL BOARD	S & R	SOLID CORE
B.L.S.	BRICK L.S.	G.L.B.	G.L.F.L.W. BEAM	S.C.	SCHEDULE
CL.	CAST IRON	H.B.	HOLE BOLT	SCHED.	SCHEDULE
CL.	CONTROL JOINT	H.D.	HEAD	SH.	SHIM
CL.I.	CONCRETE MASONRY UNIT	H.M.	HOLLOW METAL	SPC.	SPECIFICATION
C.L.G.	CEILING	HOR.	HORIZONTAL	STD.	STANDARD
COL.	COLUMN	IS.	INSIDE DIAMETER	STR.	STRUCT.
COMP.	COMPOSITE	INT.	INTERIOR	SYS.	SYSTEM
CONC.	CONCRETE	IRRG.	IRRIGATION	T & B	TOP AND BOTTOM
CONSTR.	CONSTRUCTION	INSUL.	INSULATION	T & G	TOP AND GROOVE
CONTR.	CONTRACTOR	J.	JAMB	J.	JAMB
CONT.	CONTINUOUS	JNT.	JOINT	J.O.F.	TOP OF JOINT
D.F.	DRAINING POINT/DOUGLAS FIR	J.R.	MOISTURE RESISTANT	T.O.F.	TOP OF FOOTING
DIA.	DIAMETER	MANF.	MANUFACTURER	T.O.W.	TOP OF WALL
DIR.	DIRECTION	MAX.	MAXIMUM	TYP.	TYPICAL
DN.	DOWN	MCH.	MECHANICAL	T.S.	STEEL TUBE COLUMN
DWG.	DRAWING	MIN.	MINIMUM	U.N.O.	UNLESS NOTED OTHERWISE
DTL.	DETAIL	NEW	NEW	VERT.	VERTICAL
EA.	EACH	N.C.	NOT IN CONTRACT	V.T.R.	VENT THRU ROOF
EF.	EXHAUST FAN	N.F.S.	NOT TO SCALE	W.	WATER
E.F.S.	EXT. INSUL. FINISH SYSTEM	NO.	NUMBER	WD.	WOOD
E.I.	EXPANSION JOINT	O.C.	ON CENTER	W.	WITH
E.L.C.	ELECTRICAL	OP.	OPENING	W.P.	WATERPROOF
ELEV.	ELEVATION	O.P.D.	OVERFLOW DRAIN	W.R.	WATER RESISTANT
EX.	EXTERIOR	OPNG.	OPENING	W.S.	WATER SEALER
EX.	EXISTING	P.F.	PLASTER	W.S.F.	WATER STOPPING
EX.	EXISTING	PNT.	PAINT	W.W.F.	WELDED WIRE FABRIC
EXT.	EXTERIOR	PRTD.	PAINTED	W.W.M.	WOVEN WIRE MESH

#### GENERAL NOTES

- THIS DESIGN IS AN ORIGINAL UNPUBLISHED WORK AND MAY NOT BE DUPLICATED, PUBLISHED AND/OR USED WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT/ENGINEER.
- THESE SHEETS - LISTED BY DRAWING INDEX, ALL ACCOMPANYING SPECIFICATIONS FOR MATERIALS, WORKMANSHIP QUALITY, AND NOTES HAVE BEEN PREPARED SOLELY FOR THE CONSTRUCTION AND FINISH OF PROJECT IMPROVEMENTS, COMPLETE AND READY FOR OCCUPANCY AND USE.
- ALL WORK IS TO BE PERFORMED IN ACCORDANCE WITH PERTINENT JURISDICTIONAL CODES, RESTRICTIONS, COVENANTS, AND/OR ORDINANCES. ANY CONFLICT BETWEEN DESIGN AND REQUIREMENT SHALL BE REPORTED TO THE ARCHITECT/ENGINEER BEFORE PROCEEDING.
- ANY AND ALL PROPOSED CHANGE, MODIFICATIONS AND/OR SUBSTITUTION SHALL BE REPORTED TO THE ARCHITECT/ENGINEER BEFORE PROCEEDING.
- IN THE EVENT OF CONFLICT BETWEEN THE DESIGN DOCUMENTS AND/OR JURISDICTIONAL REQUIREMENTS, THE MORE RESTRICTIVE FROM THE STANDPOINT OF SAFETY AND PHYSICAL SECURITY SHALL APPLY.
- ANY INSTALLATION, FINISH, OR COMPONENT INTENDED TO PROVIDE ENCLOSURE, WEATHER ABILITY OR APPEARANCE QUALITY SHALL BE PRODUCED AS A REPRESENTATIVE SAMPLE PRIOR TO PROCEEDING WITH COMPLETION. WORK PERFORMED WITHOUT WRITTEN APPROVAL OF SUCH SAMPLE BY THE ARCHITECT/ENGINEER SHALL BE DONE AT THE RISK OF THE CONTRACTOR. A MINIMUM OF TWO (2) WORKING DAYS NOTICE SHALL BE GIVEN.
- ALL WORK SHALL BE INSPECTED BY GOVERNING AGENCIES IN ACCORDANCE WITH THEIR REQUIREMENTS. JURISDICTIONAL APPROVAL SHALL BE SECURED BEFORE PROCEEDING WITH WORK.
- BUILDING DESIGN IS GENERALLY PREDICATED UPON PROVISIONS OF THE 2012 IRC AND AMENDMENTS AS MAY HAVE BEEN LOCALLY ENACTED. ALL REQUIREMENTS OF THE JURISDICTIONAL FIRE SAFETY/PREVENTION DISTRICT SHALL BE ACCOMMODATED BY THIS DESIGN AND ANY CONSEQUENT CONSTRUCTION.
- ALL 25 LB. GAS PIPE SYSTEM METER SETS REQUIRES PRIOR APPROVAL FROM QUESTAR GAS COMPANY. PROVIDE A LETTER FROM QUESTAR APPROVING SYSTEM.
- ALL FIELD WELDING OR TORCH WORK WILL REQUIRE A SEPARATE "HOT WORK" PERMIT PRIOR TO BEGINNING WORK. IPC 105.6.11

Jonathan DeGray  
Architect

JORGENSEN RESIDENCE  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPSON AVENUE, PARK CITY, UTAH 84060

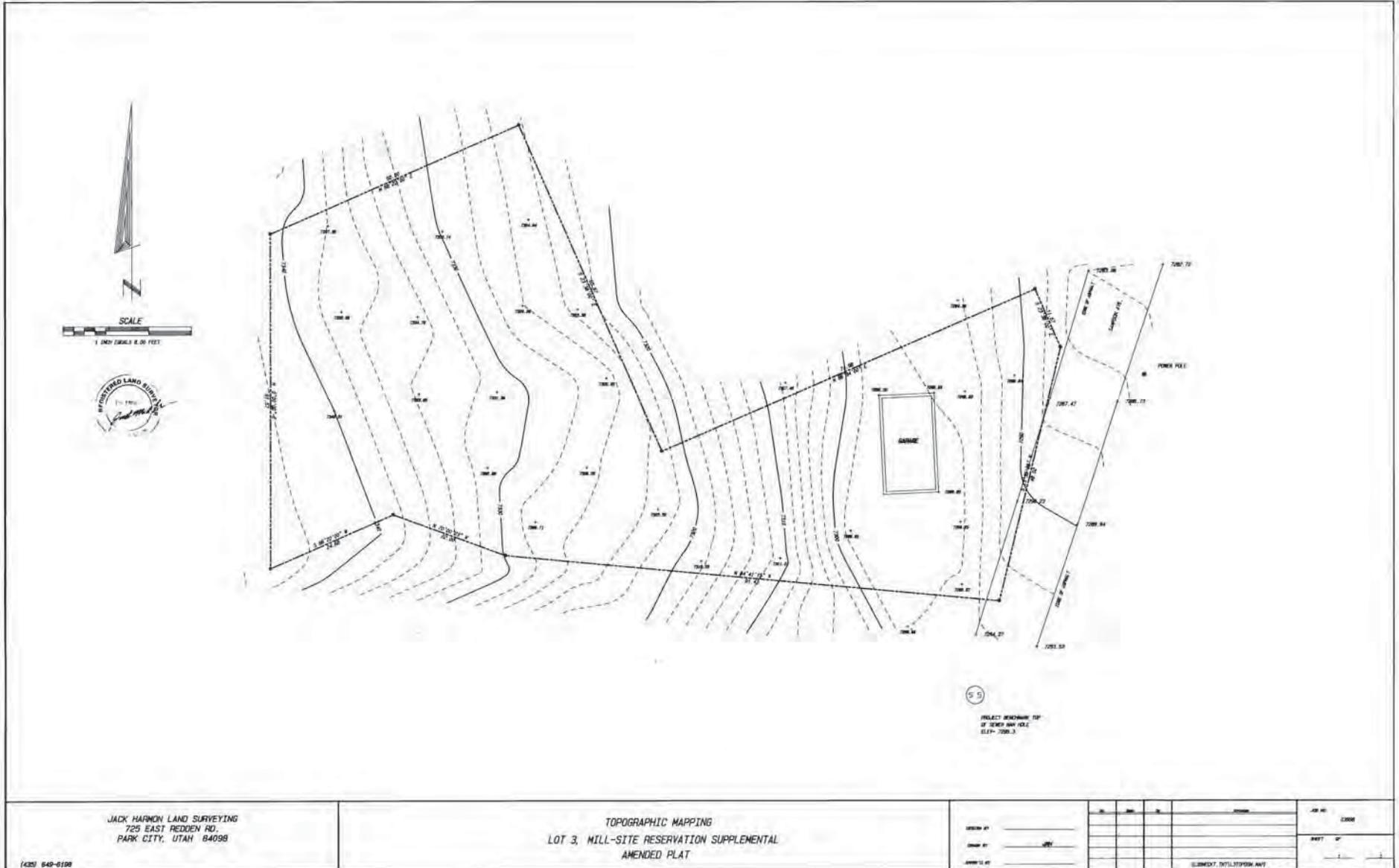
COVER SHEET

DATE: MAY 13, 2014  
DRAWN BY: KEVIN

DATE: JANUARY 26, 2012

PROJECT NUMBER: 1112-02

SHEET NUMBER: Aa



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725 EAST REDDEN RD.  
PARK CITY, UTAH 84098

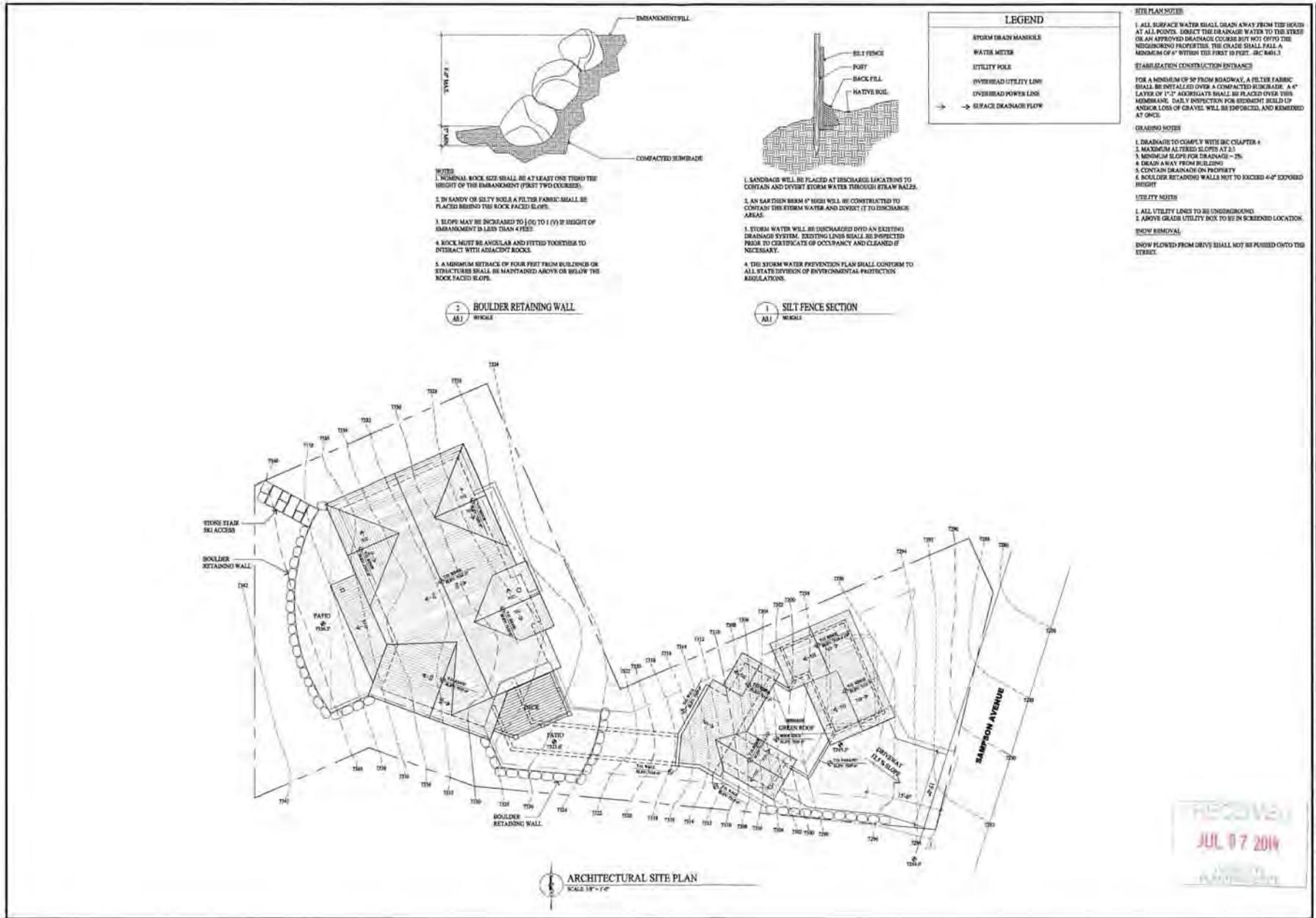
TOPOGRAPHIC MAPPING  
LOT 3, MILL-SITE RESERVATION SUPPLEMENTAL  
AMENDED PLAT

DATE OF SURVEY: \_\_\_\_\_  
DRAWN BY: JHE  
CHECKED BY: \_\_\_\_\_

NO.	DATE	BY	REVISION

JOB NO. 23000  
SHEET OF 1

# SITE PLAN



**Jonathan DeGray Architect**  
P.O. Box 1838, 914 Main Street, Suite 200, Park City, Utah 84002  
Tel: 435-648-7268, E-mail: jgray@jonathandegray.com

**JORGENSEN RESIDENCE**  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPTON AVENUE, PARK CITY, UTAH 84060

**ARCHITECTURAL SITE PLAN**

REVISIONS  
MAY 13, 2014  
DRIVEWAY REVISION

DATE  
JANUARY 26, 2013

PROJECT NUMBER  
111242

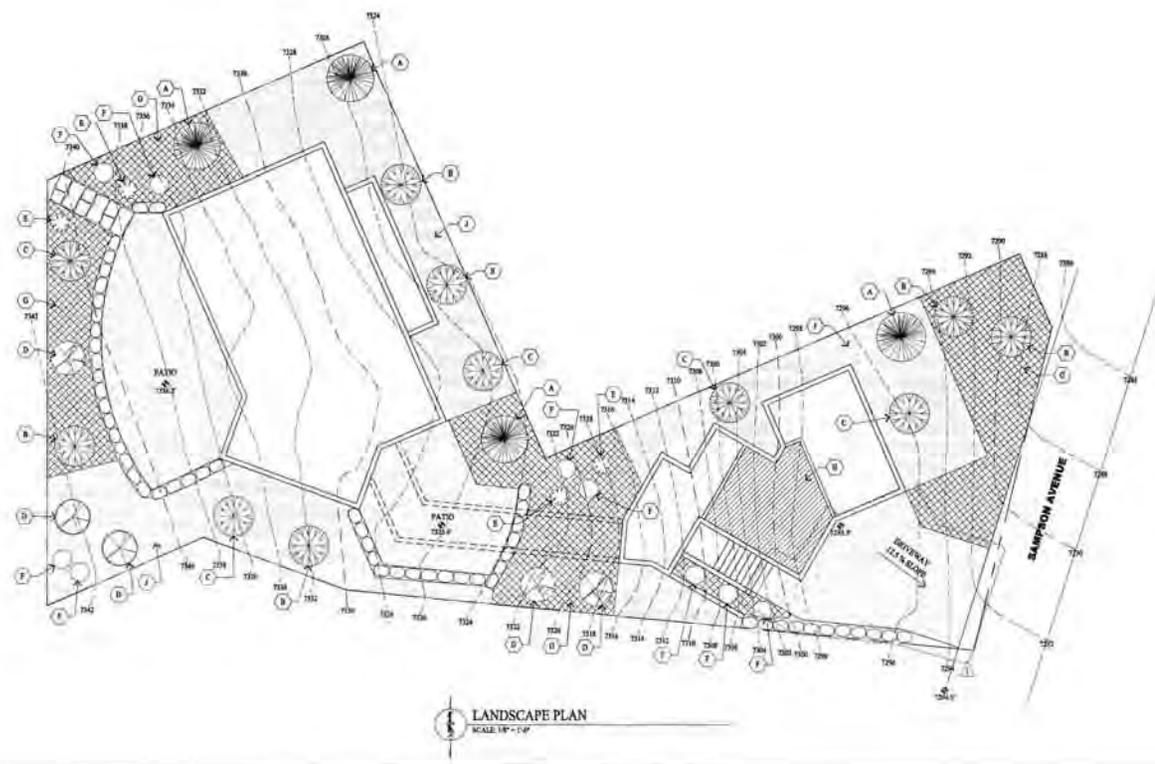
SHEET NUMBER  
A0.1

# LANDSCAPE PLAN

PLANT SCHEDULE						
TREES AND SHRUBS						
TREE #	SYM #	QUANTITY	SCIENTIFIC NAME	COMMON NAME	SIZE	SPACING
<b>CONDONIA TREES</b>						
(1)		1	ABIES CONGOLATA	WHITE FIR	12" DB	12' O.C.
(2)		1	PELAEODENDRON	COLORADO BLUE SPRUCE	12" DB	12' O.C.
(3)		1	PRINUS MICROCARPA	SWAMP WHITE PINE	1 1/2" DB	7' O.C.
<b>DECIDUOUS TREES</b>						
(4)		1	ACER GLABRUM	ROCKY MOUNT MAHOG	7 1/2" DB	9' O.C.
(5)		1	QUERCUS PRINCEPS	WHITE OAK	7 1/2" DB	9' O.C.
(6)		1	QUERCUS PRINCEPS	WHITE OAK	7 1/2" DB	9' O.C.
(7)		1	QUERCUS PRINCEPS	WHITE OAK	7 1/2" DB	9' O.C.
<b>SHRUBS</b>						
(8)		1	ASTONIA TREMBULATA	SAUCYBARK RED SAUCE	3" GAL	SPACING AS NOTED ON PLAN
(9)		1	CONIFERUS	BIRD TWIG DOGWOOD	3" GAL	SPACING AS NOTED ON PLAN
(10)		1	QUERCUS PRINCEPS	WHITE OAK	3" GAL	SPACING AS NOTED ON PLAN
<b>HERBACEOUS</b>						
(11)		1	PAVLOVA	SWAMP WHITE PINE	4" POT	12' O.C.
(12)		1	PAVLOVA	SWAMP WHITE PINE	4" POT	12' O.C.

PERENNIAL PLANTING & HYDRANGEA PALLETTE						
SYM #	SYM #	QUANTITY	SCIENTIFIC NAME	COMMON NAME	SIZE	SPACING
(1)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(2)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(3)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
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(13)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
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(36)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(37)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
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(39)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(40)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(41)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(42)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(43)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(44)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(45)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(46)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(47)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(48)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(49)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.
(50)		1	CHAMAELIRIUM	CHAMAELIRIUM	1 1/2" GAL	12" O.C.

- PLANTING NOTES**
- CONTRACTOR TO VERIFY LOCATION OF ALL UTILITIES PRIOR TO INITIATION OF EXCAVATION OR PLANTING OPERATIONS. ANY DAMAGE TO EXISTING UTILITIES ON SITE OR ADJACENT PROPERTY SHALL BE CONTRACTOR'S RESPONSIBILITY.
  - ALL PLANT MATERIAL SHALL CONFORM TO CURRENT AMERICAN ASSOCIATION OF HEDGEROWERS STANDARD SPECIFICATIONS.
  - ALL PLANT MATERIAL SHALL BE DELIVERED AS PER DRAWING DETAILS AND SPECIFICATIONS.
  - CONTRACTOR SHALL VERIFY ALL QUANTITIES. IN CASE OF A DISCREPANCY, THE ELUCIDATED LOCATION SHALL PREVAIL.
  - CONTRACTOR SHALL COORDINATE ALL PLANTING WITH REGULATION CONTRACTOR, AS NOTED.
  - IN THE EVENT OF A DISCREPANCY BETWEEN THE ARCHITECT OR OWNER IMMEDIATELY.
  - NO EXISTING TREES SHALL BE ALLOWED WITHOUT WRITTEN PERMISSION OF THE ARCHITECT OR OWNER.
  - SHRUBS SHALL BE PLANTED 1' OF TONGUE.
  - ALL SHRUBS SHALL BE 1' OF TONGUE (BARK MATCH) INSTALLED.
  - SHRUBS SHALL BE PLANTED IN 1' OF TONGUE (BARK MATCH) INSTALLED. IT SHALL BE REPAIRED ALL OTHERS BEING NATIVE GRASS LOCATIONS.
  - ALL PLANTS AND ALL PLANT MATERIAL SHALL BE SET PLANTS.
  - ALL ROOT WRAPPING MATERIAL SHALL BE SYNTHETIC OR PLASTIC SHALL BE REMOVED AT TIME OF PLANTING AND PROPERLY DISCARDED.
  - NO BARK MOUNT STOCK SHALL BE USED.
  - FOR PLANTING BACK FILL SEE NOTES SPECIFICATIONS.



LANDSCAPE PLAN  
SCALE 1/4" = 1'-0"

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**JORGENSEN RESIDENCE**  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPRON AVENUE, PARK CITY, UTAH 84060

LANDSCAPE PLAN

REVISIONS:  
MAY 13, 2014  
DRIVEWAY REVISION

DATE:  
JANUARY 26, 2012

PROJECT NUMBER:  
1112-02

SHEET NUMBER:  
A0.2







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**JORGENSEN RESIDENCE**  
 HISTORIC DISTRICT DESIGN REVIEW AND  
 STEEP SLOPE CONDITIONAL USE APPLICATION SET  
 30 SIMPSON AVENUE, PARK CITY, UTAH 84302

**BASEMENT LEVEL PLAN**

DATE: MAY 11, 2014  
 (REVENUE REVISION)

DATE: JANUARY 26, 2011

PROJECT NUMBER: 1112-02

SCALE: 1/4" = 1'-0"

BASEMENT AREA: 1214 SQ FT

**A1.2**



LOWER LEVEL PLAN  
SCALE: 1/8" = 1'-0"

LOWER AREA: 128 SQ FT

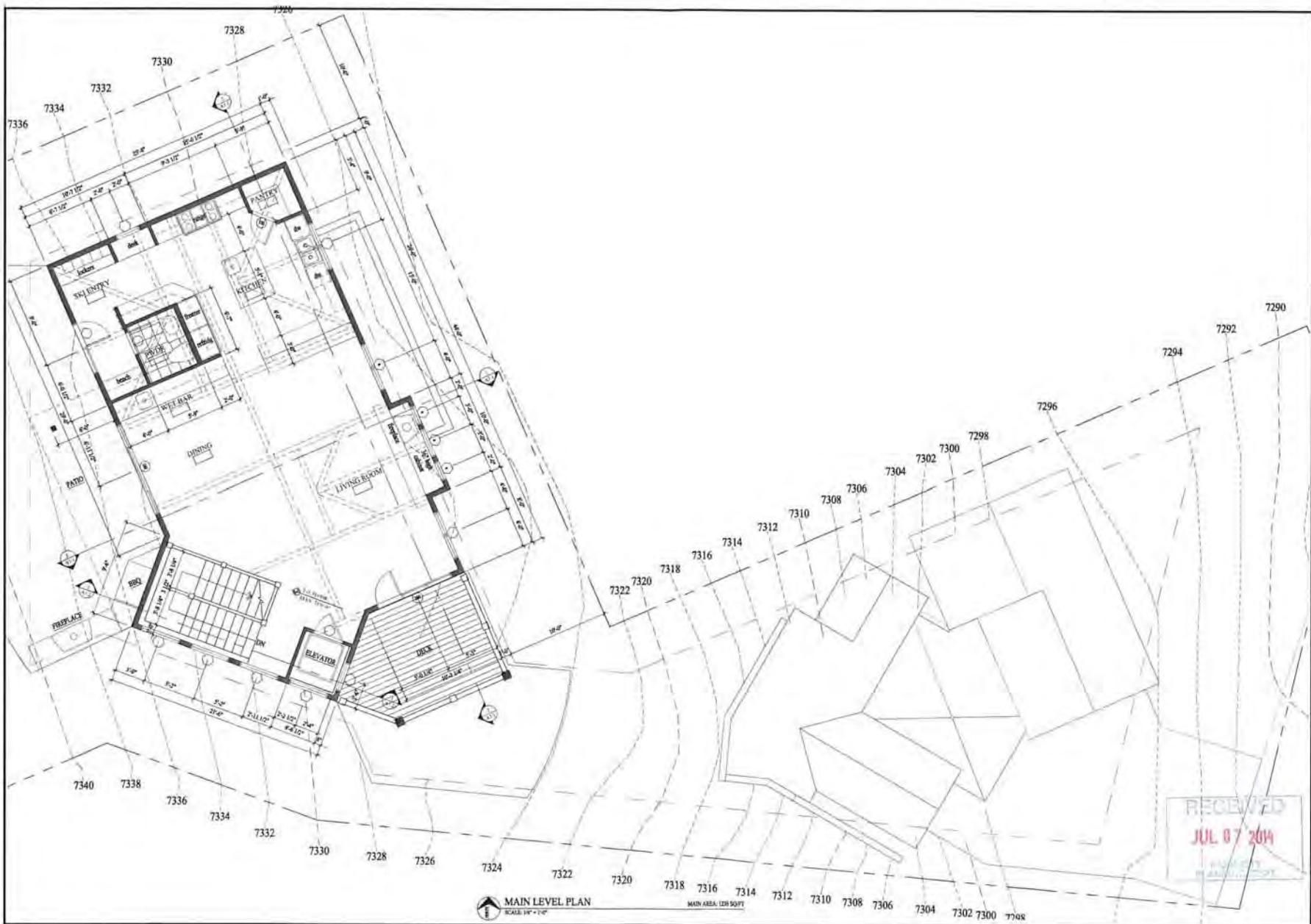
JUL 0 2014

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PROJECT LOCATION:  
JORGENSEN RESIDENCE  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPSON AVENUE, PARK CITY, UTAH 84060

LOWER LEVEL PLAN

REVISION:  
▲ MAY 13, 2014  
DRIVEWAY REVISION  
DATE:  
JANUARY 26, 2012  
PROJECT NUMBER:  
1112-02  
SHEET NUMBER:  
A1.3



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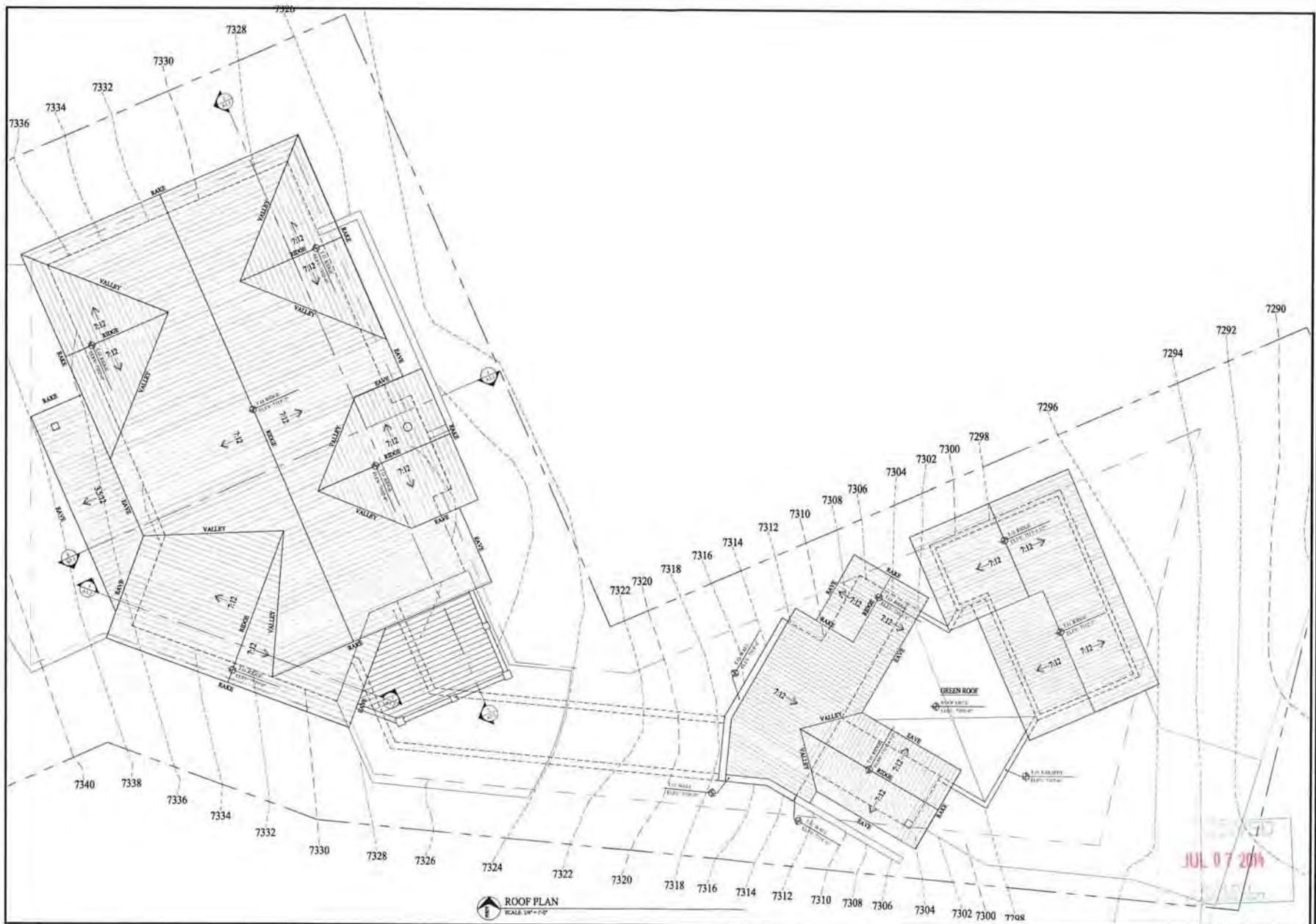
**JORGENSEN RESIDENCE**  
 HISTORIC DISTRICT DESIGN REVIEW AND  
 STEEP SLOPE CONDITIONAL USE APPLICATION SET  
 30 SAMPSON AVENUE, PARK CITY, UTAH 84060

**MAIN LEVEL PLAN**

**RECEIVED**  
 JUL 07 2014

REVISIONS:  
 MAY 13, 2014  
 DRIVEWAY REVISION

DATE: JANUARY 26, 2012  
 PROJECT NUMBER: 111242  
 SHEET NUMBER: A1.4



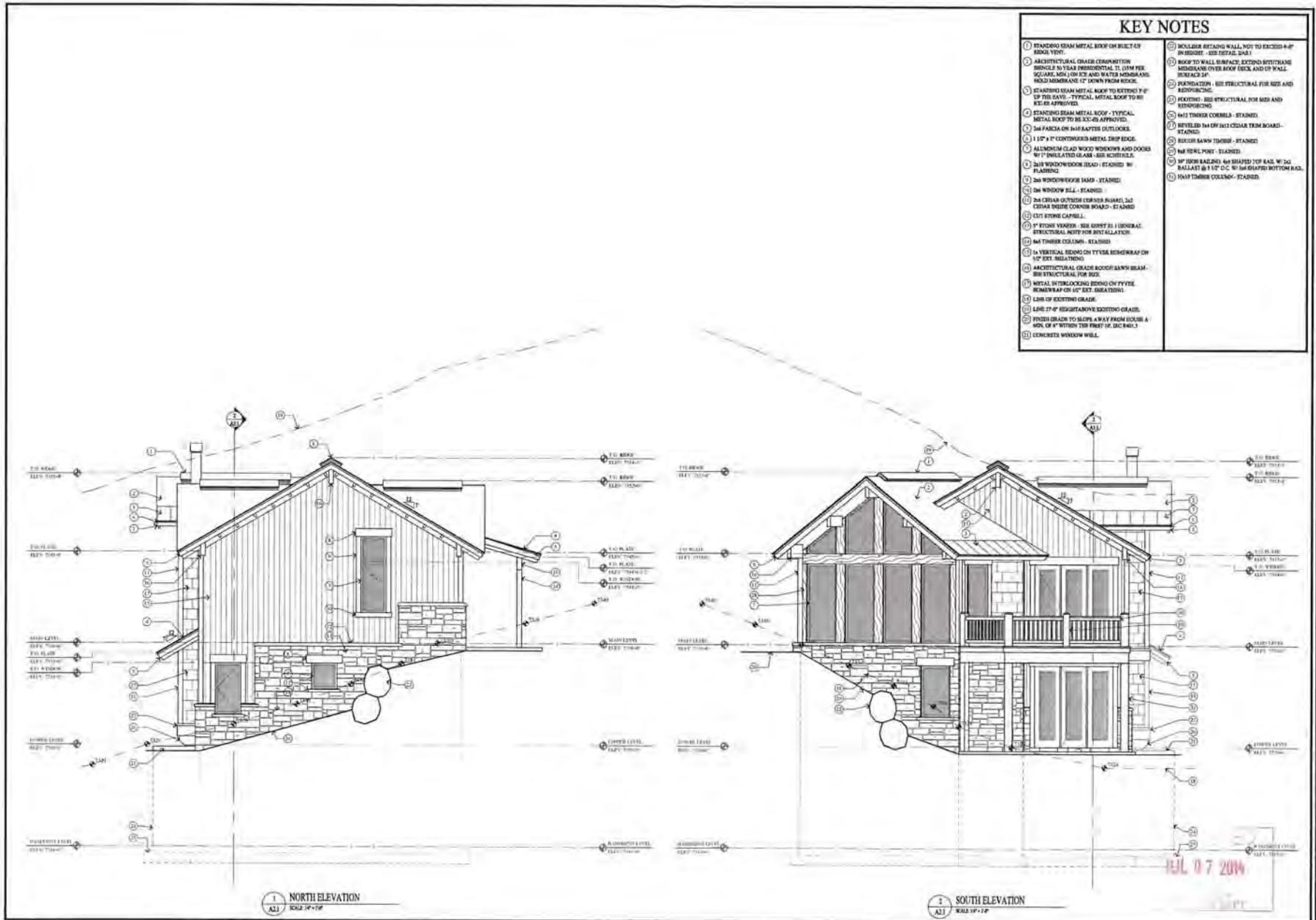
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JORGENSEN RESIDENCE  
 HISTORIC DISTRICT DESIGN REVIEW AND  
 STEEP SLOPE CONDITIONAL USE APPLICATION SET  
 30 SAMPERSON AVENUE, PARK CITY, UTAH 84300

ROOF LEVEL PLAN

REVISIONS	DATE
△ MAY 13, 2014 DRIVEWAY REVISION	JANUARY 26, 2012
PROJECT NUMBER	SHEET NUMBER
1112-02	A1.5

# ELEVATIONS



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JORGENSEN RESIDENCE  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPSON AVENUE, PARK CITY, UTAH 84060

HOUSE  
NORTH ELEVATION  
SOUTH ELEVATION

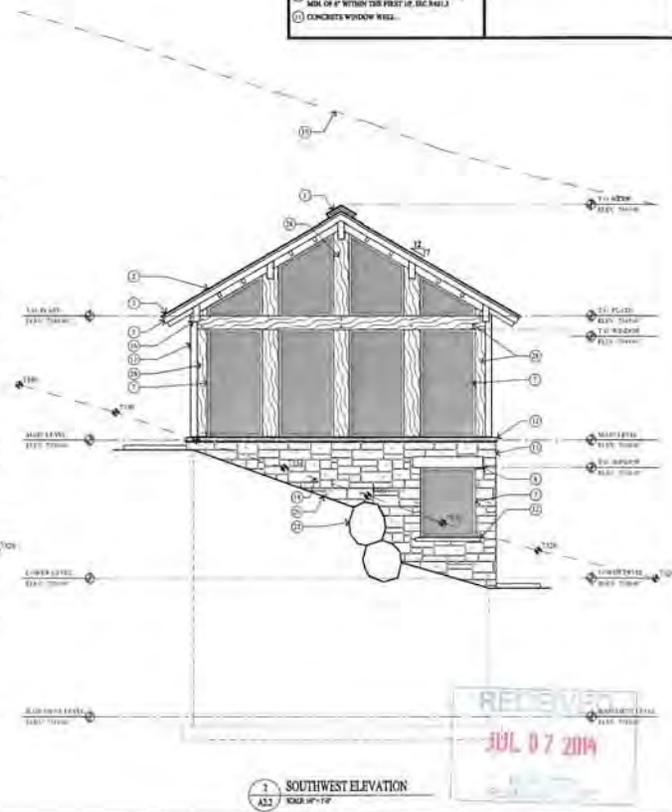
REVISION  
MAY 13, 2014  
DRIVEWAY REVISION

DATE  
JANUARY 26, 2012

PROJECT NUMBER  
11124B

1  
A2.1

- ### KEY NOTES
- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>① STANDING SEAM METAL ROOF ON BUILD UP EDGE VENT</li> <li>② ARCHITECTURAL GRADE COMPOSITION SEE 2.2 IN YEAR PRESIDENTIAL CL. (ASA PER REGIONAL MFG. ORDER AND WATER MEMORANDUM) HOLD MEMBRANE 12" DOWN FROM ROOF.</li> <li>③ STANDING SEAM METAL ROOF TO EXTEND 3" UP UP FOR GABLE - TYPICAL METAL ROOF TO BE KICKS APPROVED</li> <li>④ STANDING SEAM METAL ROOF - TYPICAL METAL ROOF TO BE KICKS APPROVED</li> <li>⑤ 2x4 FASCIA ON 3/4" RAFTER CUTLOGS.</li> <li>⑥ 1" UP x 2" CONTINUOUS METAL Drip EDGE.</li> <li>⑦ ALUMINUM CLAD WOOD WINDOW AND DOORS w/ 1" INSULATED GLASS - SEE SCHEDULE</li> <li>⑧ 2x4 WINDOW DOOR HEAD - STAINED w/ FLAIRING</li> <li>⑨ 2x4 WINDOW DOOR JAMB - STAINED</li> <li>⑩ 2x4 WINDOW SILL - STAINED</li> <li>⑪ 2x4 CEDAR OUTSIDE CORNER BOARD, 1/2" CEDAR INSIDE CORNER BOARD - STAINED</li> <li>⑫ 2" STAIN VENTURE - SEE SHEET 2.1 (GENERAL STRUCTURAL NOTES FOR INSTALLATION)</li> <li>⑬ CUT VENTURE CASSETTE</li> <li>⑭ 2x4 TIMBER COLUMN - STAINED</li> <li>⑮ 1x4 VERTICAL SIDING ON TYVEK HOMEWRAP ON 1/2" EXT. INSULATION</li> <li>⑯ ARCHITECTURAL GRADE SMOOTH SAWN BEAM - SEE STRUCTURAL FOR SIZE</li> <li>⑰ METAL INTERLOCKING SIDING ON TYVEK HOMEWRAP ON 1/2" EXT. SHEATHING</li> <li>⑱ 1x4x8 OF EXISTING GRADE</li> <li>⑳ 1x4x8 7" W/ INSULATIVE DENSITY GRADE</li> <li>㉑ FINISH GRADE TO SLOPE AWAY FROM HOUSE A MIN. OF 4" WITHIN THE FIRST 10'. SEE 846.1.3</li> <li>㉒ CONCRETE WINDOW WELLS.</li> </ul> | <ul style="list-style-type: none"> <li>㉓ BOLLER RETAINING WALL, NOT TO EXCEED 4" IN HEIGHT - SEE DETAIL 204.1</li> <li>㉔ ROOF TO WALL SURFACE EXTEND OUTSIDE MEMBRANE OVER ROOF TOOK AND UP WALL SURFACE 3".</li> <li>㉕ FOUNDATION - SEE STRUCTURAL FOR SIZE AND REINFORCING.</li> <li>㉖ FOOTING - SEE STRUCTURAL FOR SIZE AND REINFORCING</li> <li>㉗ 1x4x2 TIMBER CORNICE - STAINED</li> <li>㉘ REVELED 1x4x2 CEDAR TRIM BOARD - STAINED</li> <li>㉙ ROUGH SAWN TIMBER - STAINED</li> <li>㉚ 1x4x2 NEW POST - STAINED</li> <li>㉛ 1x4x2 FRESH LASHING AND SHAPED TOP RAIL, W/ 2x4 BALLAST @ 3" ON TOP, W/ 1x4x2 STRAPPED BOTTOM RAIL.</li> <li>㉜ 1x4x2 TIMBER COLUMN - STAINED</li> </ul> |
|--|--|



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JORGENSEN RESIDENCE  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPSON AVENUE, PARK CITY, UTAH 84090

HOUSE  
EAST ELEVATION  
SOUTHWEST ELEVATION

RECEIVED  
JUL 07 2014

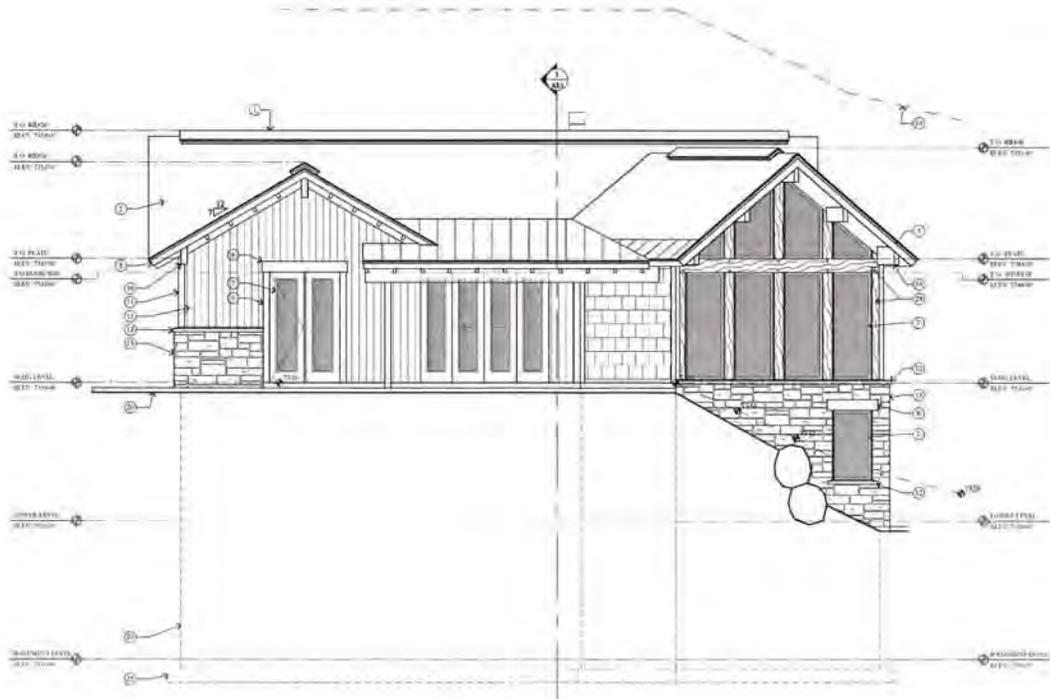
DATE: MAY 11, 2014  
DESIGN REVISION

DATE: JANUARY 26, 2012

PROJECT NUMBER: 1111-02

SHEET NUMBER: A2.2

KEY NOTES	
1) STANDING SEAM METAL ROOF ON RIBS 1'-0" RISE VENT.	21) SCISSOR RETAINING WALL, NOT TO EXCEED 4'-0" IN HEIGHT - SEE DETAIL 2041.
2) ARCHITECTURAL GRADE COMPOSITION: 8" MIN. PRESIDENTIAL TL, 2" MIN. PER SQUARE, 4" MIN. ON ICE AND WATER MEMBRANE, 4" MIN. SAND, 12" 4" MIN. FROM EXTER.	22) ROOF TO WALL JOINT: EXTEND MITERING MEMBERS OVER ROOF DECK AND 1" WALL SURFACE 3".
3) STANDING SEAM METAL ROOF TO EXTEND 2'-0" UP THE EAVE - TYPICAL METAL ROOF TO BE KE-30 APPROVED.	23) FOUNDATION: SEE STRUCTURAL FOR SIZE AND REINFORCING.
4) STANDING SEAM METAL ROOF - TYPICAL METAL ROOF TO BE KE-30 APPROVED.	24) FOOTING: SEE STRUCTURAL FOR SIZE AND REINFORCING.
5) 2x4 FASCIA ON 1x4 RAFTER OUTLOOKS.	25) 1x4 THICK CORNERS - STAINED.
6) 1 1/2" x 5" CONTINUOUS METAL Drip SOOL.	26) REVELED 1/4" ON 3/4" CEDAR TRIM BOARD - STAINED.
7) ALUMINUM CLAD WOOD WINDOWS AND DOORS W/ 1" INSULATED GLASS - SEE SCHEDULE.	27) 2x4 WOOD TRIMMER - STAINED.
8) 2x4 WOOD WINDOW HEAD - STAINED W/ FINISHING.	28) 2x4 WOOD TRIMMER - STAINED.
9) 2x4 WOOD WINDOW SILL - STAINED.	29) 1/2" 2x4 BATTLED: 4x4 SHAPED TOP RAIL, W/ 2x4 BALLAST @ 5 1/2" O.C. W/ 3/4" SHAPED BOTTOM RAIL.
10) 2x4 WOOD WINDOW JAMB - STAINED.	30) 1x4 3/4" THICK CHALKLINE - STAINED.
11) 2x4 CEDAR CUTTING BOARD BOARD, 2x4 CEDAR TRIMMER CORNER BOARD - STAINED.	31) CONCRETE RETAINING WALL.
12) CUT STONE CAPWELL.	32) GREEN ROOF.
13) 3" STONE VENEER - SEE SHEET 011 (GENERAL ELECTRICAL NOTES FOR INSTALLATION).	
14) 6x4 TRIMMER COLUMN - STAINED.	
15) 1/4" VERTICAL SILING ON TYVEK BARRIER ON 12" EXT. BRICKWORK.	
16) ARCHITECTURAL GRADE ACCESS BATH ROOM, SEE STRUCTURAL FOR SIZE.	
17) METAL INTERLOCKING SILING ON TYVEK BARRIER ON 12" EXT. BRICKWORK.	
18) LINE OF EXISTING GRADE.	
19) LINE 27" W/ HEIGHT ABOVE EXISTING GRADE.	
20) FINISH GRADE TO SLOPE AWAY FROM EXTER A MIN. OF 1" WIDTH THE FOOT OF EACH 12".	
21) CONCRETE WINDOW WELL.	



1 WEST ELEVATION  
SCALE: 1/8" = 1'-0"

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JORGENSEN RESIDENCE  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPESON AVENUE, PARK CITY, UTAH 84060

HOUSE  
WEST ELEVATION

REVISION  
MAY 13, 2014  
DRIVEWAY REVISION

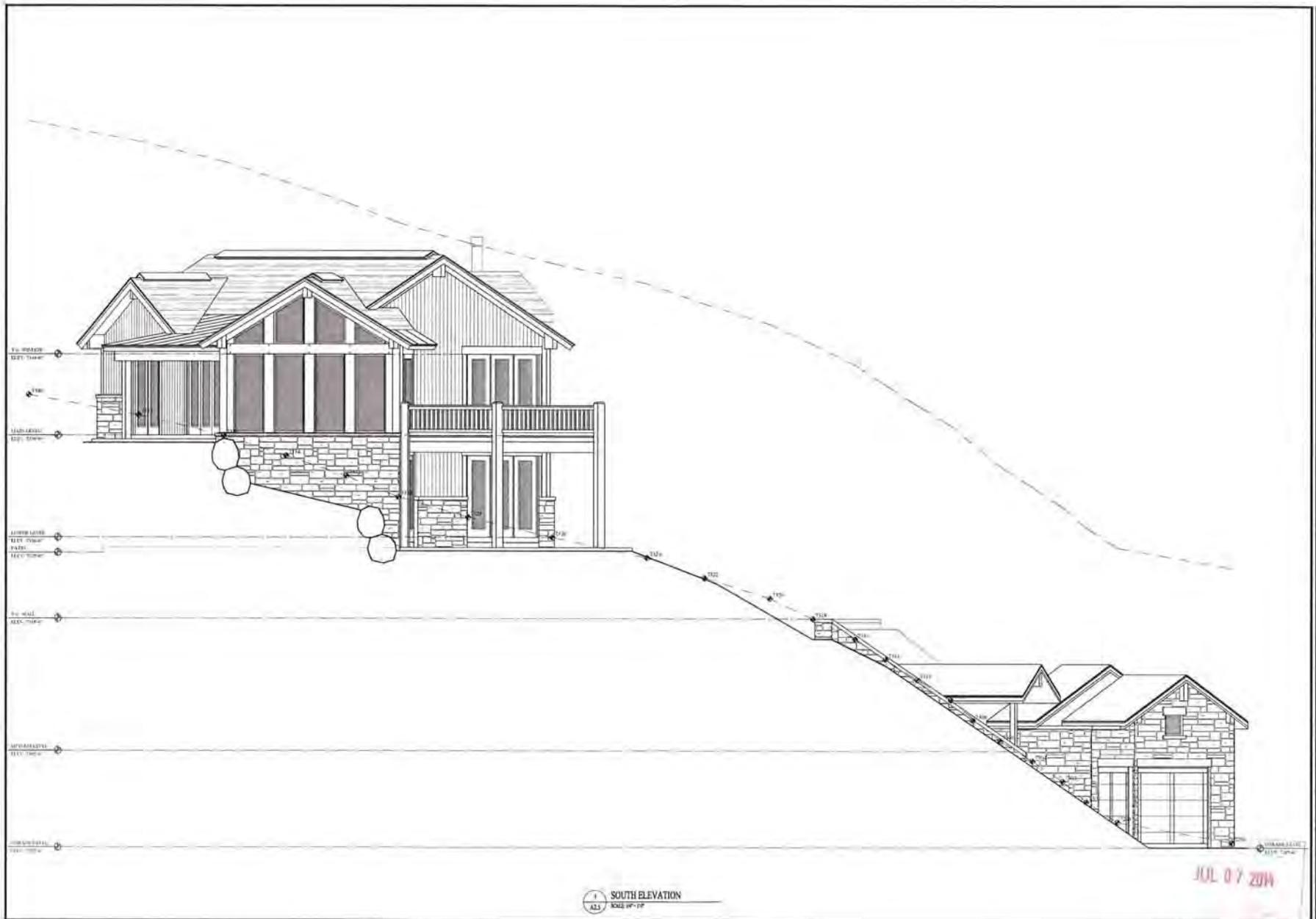
DATE  
JANUARY 26, 2011

PROJECT NUMBER  
1112-02

SHEET NUMBER  
A2.3

JUL 07 2014





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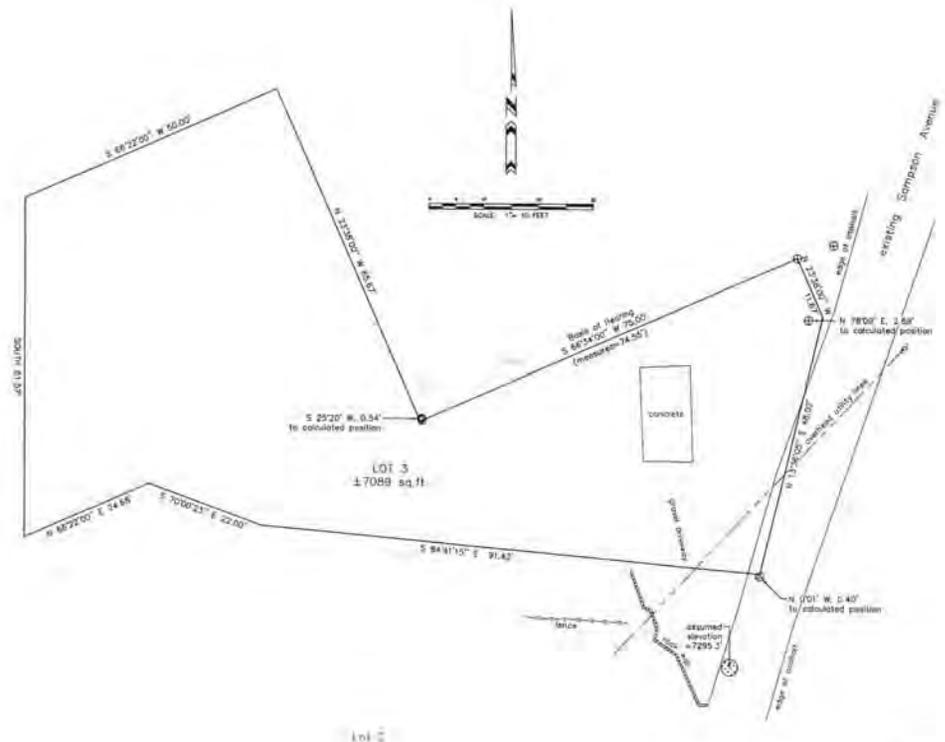
**JORGENSEN RESIDENCE**  
 HISTORIC DISTRICT DESIGN REVIEW AND  
 STEEP SLOPE CONDITIONAL USE APPLICATION SET  
 30 SAMPSON AVENUE, PARK CITY, UTAH 84060

**GARAGE & HOUSE**  
**SOUTH**  
**ELEVATIONS**

**REVISIONS**  
 MAY 11, 2014  
 DRIVEWAY REVISION  
 DATE: JANUARY 26, 2017  
 PROJECT NUMBER: 111242  
 SHEET NUMBER: **A2.5**

JUL 07 2014

*Mill-Site Reservation Supplemental Amended Plat  
a Subdivision of Block 78 and 79 of Subdivision No.1 of Mill-Site Reservation  
Lot 3 (30 Sampson Avenue)*



- Legend**
- ⊗ Found nail & washer
  - ⊠ Found rebar & cap—LS 176966
  - ⊙ Found rebar & cap—LS 3082
  - ⊕ Sewer manhole
  - ⊖ Utility pole

NARRATIVE

1. Survey requested by Kenneth Jorgensen.
2. Purpose of survey locate the specified topographic relief.
3. Basis of survey: found property monuments as shown.
4. Date of survey: September 5, 2012.
5. Property monuments found as shown.
6. Located in the Southeast Quarter of Section 16, Township 2 South, Range 4 East, Salt Lake Base & Meridian.
7. See the official plat of the Mill-Site Reservation Supplemental Amended Plat for other possible easements, restrictions or setbacks.
8. The owner of the property should be aware of any items affecting the property that may appear in a title insurance report.
9. The elevations are based on an elevation of 7295.3 feet at the sewer manhole lid, from the previous topographic survey of the property by Jack Harman Land Surveying.

LEGAL DESCRIPTION

Lot 3, Mill-Site Reservation Supplemental Amended Plat, according to the Official Plat thereof, on file and of record in the Office of the Summit County Recorder.

SURVEYOR'S CERTIFICATE

I, J.D. Cooley, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 359005, do hereby certify that I have supervised a survey of the herein described property and that this plat is a true representation of said survey.

Sept. 11, 12  
Date



J.D. Cooley (359) 359005





**PLAT AS SUBMITTED**

Beginning at the Southeast Corner of Lot 47, Block 78, Mill-Site Reservation, Summit County, Utah, along the Eastern line of said Lot 47, a distance of 17.81 feet to the Western side of an existing road, thence South 137.00 feet along said Western side, a distance of 250.00 feet, thence South 89.47 feet, a distance of 16.62 feet, thence South 89.47 feet, a distance of 14.22 feet to the Southern line of Lot 4, Block 78, Mill-Site Reservation, thence South 89.47 feet along said Southern line, a distance of 19.36 feet to a point being the corner point corner of Lots 1 and 2, thence due North 200.27 feet along the Western line of Block 78, Mill-Site Reservation, to the Western line of Utah Avenue as depicted, thence North 84.02 feet, a distance of 10.00 feet to the Eastern line of said Utah Avenue as recorded, thence South 84.02 feet, a distance of 84.02 feet along said Eastern line to the Southeast Corner of Lot 47, Block 78, Mill-Site Reservation as recorded, thence North 84.02 feet along the Eastern line of said Lot 47, a distance of 75.00 feet to the point of beginning.

Section 552 shows work in place.

**TOWN'S DECLARATION AND CONSENT TO PLAT**

Know all men by these presents, that the undersigned, the Mayor of the Town of Park City, Utah, do hereby certify that the plat hereon shown is a true and correct copy of the original plat as recorded in the office of the County Recorder, Summit County, Utah.

*Mayor*  
*Mr. Kay Donnell Schmitt*  
 Mayor, Park City, Utah

**ACKNOWLEDGMENT**

State of Utah  
 County of Summit  
 On the 7th day of August, 1995, personally appeared before me, Craig A. Schmitt, a Notary Public for Summit County, Utah, who being duly sworn, did say that they are the owner of Mill-Site Reservation, Supplemental Amended Plat Lots 1, 2, and 3, and that the above and foregoing declaration and consent to record were signed and made of their own free will.

*Craig A. Schmitt* 8/3/95  
 Notary Public

**SURVEYOR'S CERTIFICATE**

I, *John A. Johnson*, do hereby certify that I am a Registered Land Surveyor and that I was employed as Surveyor on the above described plat, and I further certify that a survey has been made of the same and shown on the plat and described hereon. I further certify that the plat is a true and correct copy of the original plat as recorded in the office of the County Recorder, Summit County, Utah, and that the same complies with the minimum standards and requirements of the law.

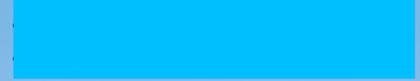
*John A. Johnson*  
 August 7, 1995  
 State

- NOTICE: SEE SURVEY RECORD AND MAP SET OF ALL PROPERTY CONCERNED SUBJECT AS NOTED BY JOHN JOHNSON, L.S. #17906.
- 1) BASED ON USGS RESEARCH OF WARRIANTY DEEDS AND PREVIOUS SURVEYS OF THIS AND ADJACENT PROPERTIES, A CLAIM OF NORTH HALF EAST WAS CROSSED BY THE NORTHERLY AND SOUTHERLY LINES OF LOTS 1 AND 2A, BLOCK 78. IT SHOULD BE NOTED THAT BEARING BE SOUTH 89.00° EAST AND NORTH 89.00° EAST WERE USED ON OTHER DOCUMENTS FOR SAID LOTS WHICH WERE RECORDED IN 1915.
  - 2) THE SANITARY SEWER SERVICE LATERALS EXIST FOR SOME LOTS IN THIS SUBDIVISION. THE PROPERTY OWNERS WILL BE REQUIRED TO CONSTRUCT AND INSTALL SERVICE LATERALS TO THEIR PROPERTY AT THEIR EXPENSE. CONTACT THE SPOYERFIELD TOWN SEWER IMPROVEMENT DISTRICT AND OBTAIN CITY-OWN CONSTRUCTION DETAILS AND INFORMATION ON INSTALLATION OF SERVICE LATERALS.
  - 3) A WASTEWATER COLLECTION SYSTEM SHALL BE REQUIRED FOR ALL NEW CONSTRUCTION INCLUDING REPAIRING TO AN EXISTING STRUCTURE ON LOT 2. AUGER HOLES SHALL BE PROVIDED.
  - 4) THE MAXIMUM SIZES FOR RESIDENTIAL STRUCTURES ON THE LOTS SHALL BE:
    - LOT 1 - 4000 SQUARE FEET
    - LOT 2 - 2500 SQUARE FEET
    - LOT 3 - 1800 SQUARE FEET

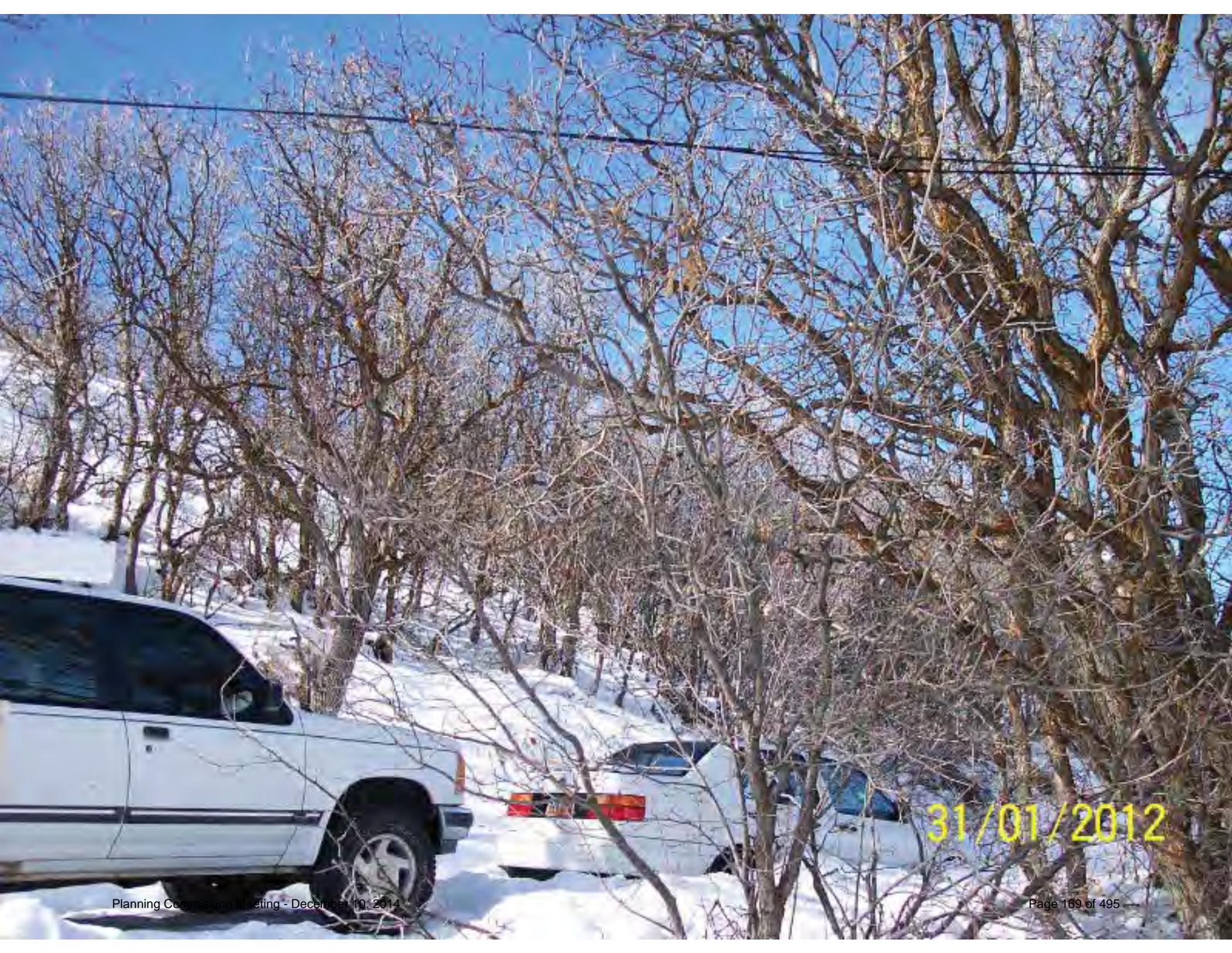
**MILL-SITE RESERVATION SUPPLEMENTAL AMENDED PLAT**  
 A SUBDIVISION OF BLOCK 78 AND 79 OF SUBDIVISION NO. 1 OF MILL-SITE RESERVATION, PARK CITY, SUMMIT COUNTY, UTAH, DATED JUNE 25, 1887 AND RECORDED AT THE SUMMIT COUNTY, UTAH RECORDERS OFFICE.

<p><b>CITY COUNCIL APPROVAL</b></p> <p>PROPOSED BY: <i>John A. Johnson</i>          BOARD OF: <i>John A. Johnson</i>          JANUARY 1974          PARC CITY</p>	<p><b>CITY ENGINEER</b></p> <p>APPROVED AND ACCEPTED BY THE CITY ENGINEER: <i>Eric W. Odham</i>          DATE: 11th DAY OF AUGUST 95</p>	<p><b>CITY PLANNING COMMISSION</b></p> <p>APPROVED AND ACCEPTED BY THE CITY PLANNING COMMISSION: <i>John A. Johnson</i>          DATE: 11th DAY OF AUGUST 95</p>	<p><b>SEWER DISTRICT APPROVAL</b></p> <p>APPROVED BY THE SEWER DISTRICT: <i>James R. Baird</i>          DATE: 11th DAY OF AUGUST 1995</p>	<p><b>APPROVAL AS TO FORM</b></p> <p>APPROVED AS TO FORM BY: <i>M.D.H.</i>          DATE: AUGUST 95</p>	<p><b>RECORDED</b></p> <p>FILE: 436448          COUNTY: Summit          RECORDED AND FILED AT THE OFFICE OF THE CITY CLERK: <i>Alan Sprague</i>          DATE: 08-01-95          Fee: \$33.00</p>	<p><b>THE JACK JOHNSON COMPANY</b></p> <p>1810 Prospect Avenue • Park City, Utah 84060          (801) 436-8000 • Fax (801) 349-1000</p>
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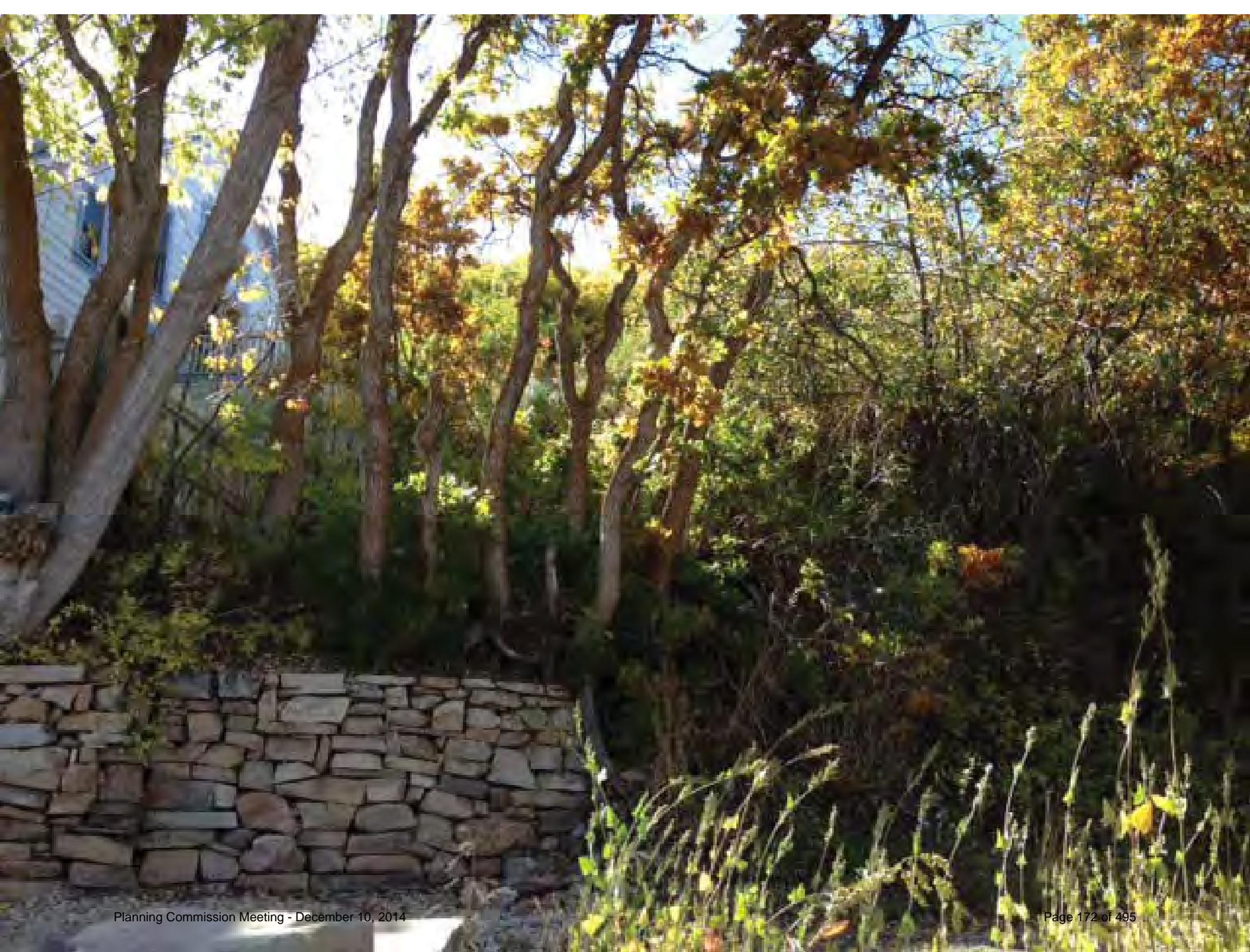
31/01/2012

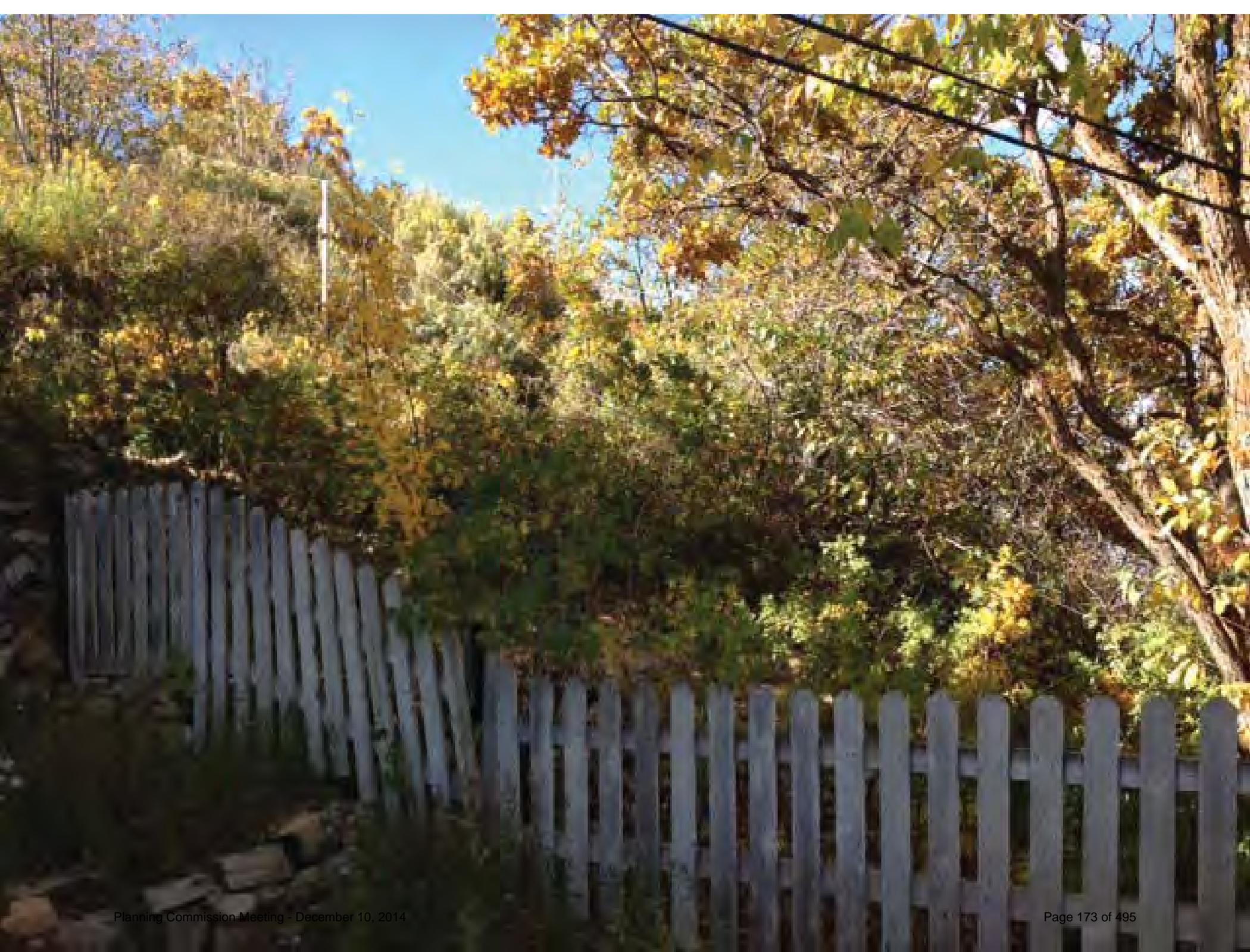


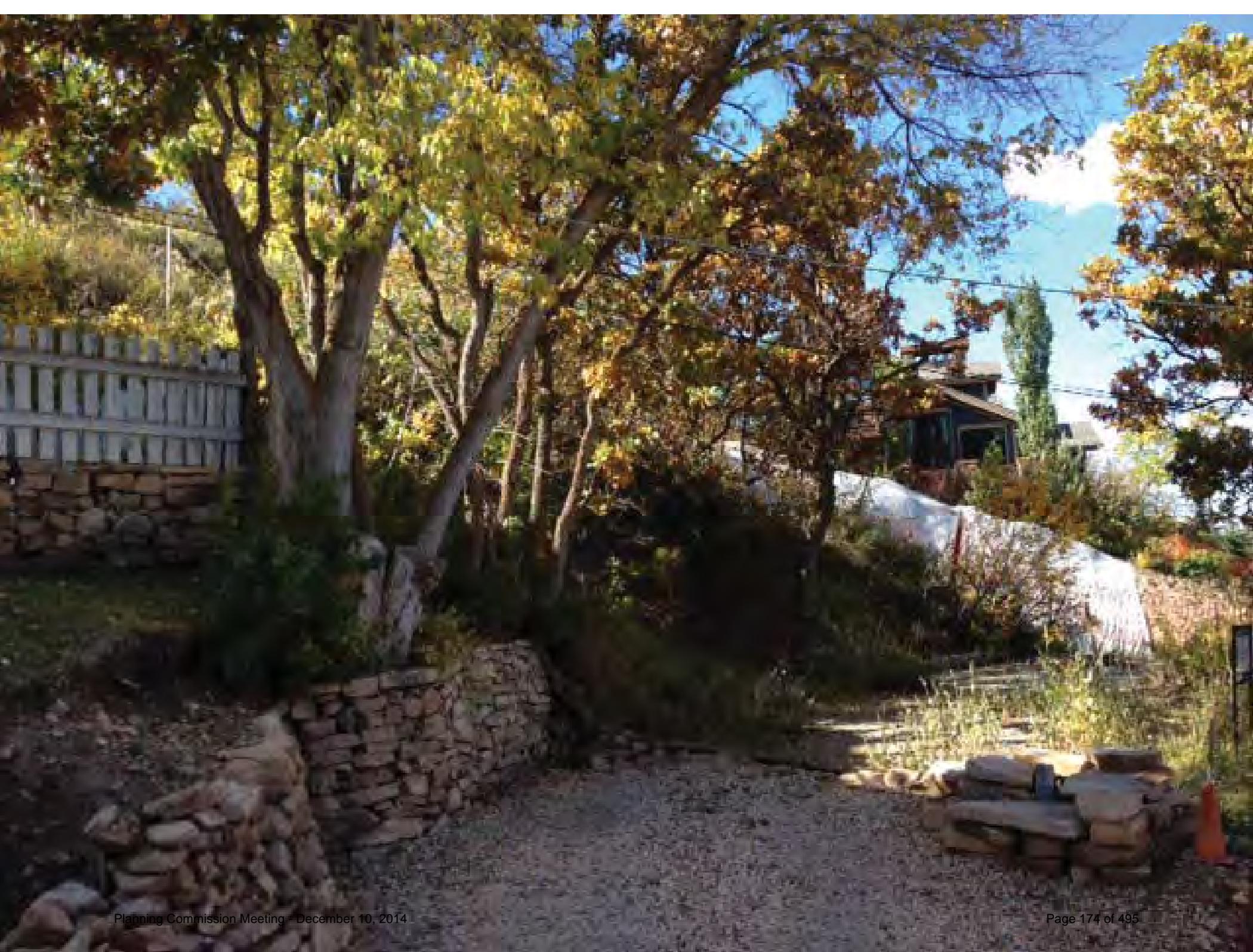


31/01/2012







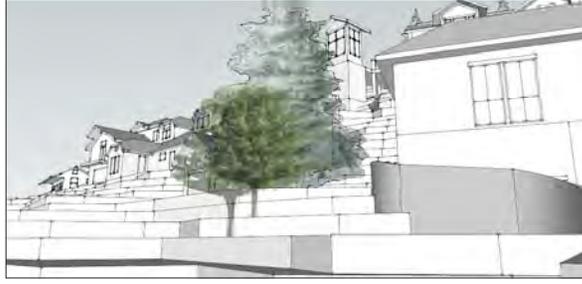
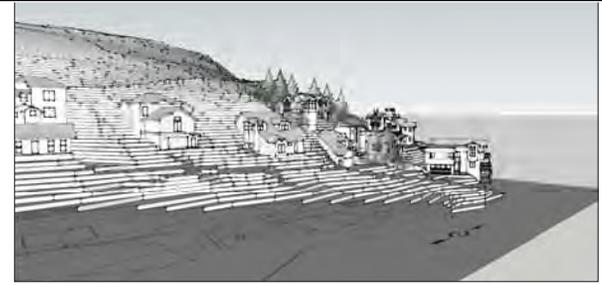
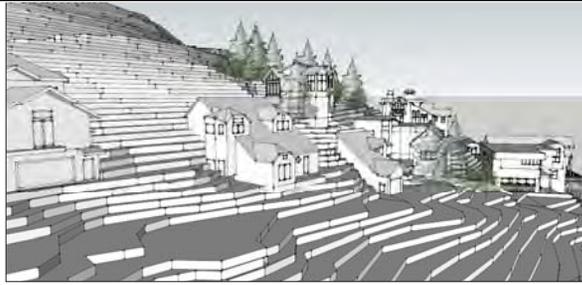


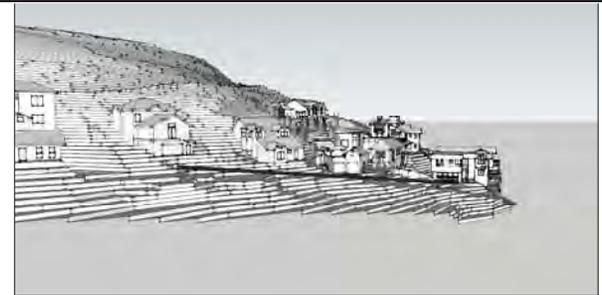


31/01/2012



31/01/2012





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**JORGENSEN RESIDENCE**  
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 STEEP SLOPE CONDITIONAL USE APPLICATION SET  
 30 SAMPSON AVENUE, PARK CITY, UTAH 84060

**PERSPECTIVES**  
 VIEWS WITH NO ELEVATOR

DATE: AUGUST 12, 2014  
 PROJECT NUMBER: 1112-02

**A2.1b**

Planning Commission Meeting  
Minutes of December 14, 1994  
Page 5

6. The buildings on the newly created lots shall not exceed a Floor Area ratio of 2.0.

**V. PUBLIC HEARINGS/ACTION ITEMS**

**1. 30, 40, 50 Sampson Avenue Plat Amendment**

Planner Janice Lew reported that the applicant was requesting an amendment to a portion of the Park City Survey Plat. The amendment would combine several Old Town lots into three larger parcels, thereby reducing the density and providing access to each lot from Sampson Avenue. The parcel is located in the HRL District, and the minimum lot size in the area is 3,750 square feet. The parcels are subject to floor area ratios and Historic District design standards. A number of issues listed in the Staff report were addressed in the conditions of approval or notes shown on the plat. The Planning Commission had discussed building size during the work session, and there was concern about maintaining compatibility with the smaller Old Town lots and the Historic District in that area. The Staff had not received public input other than phone calls from John Hayes and Jon DeGray requesting information about the proposal. The Staff recommended that the Planning Commission forward a positive recommendation to the City Council based upon the findings and conclusions of law and conditions of approval outlined in the Staff report.

Chair Child opened the public hearing.

The applicant, Craig Schneckloth, noted the concerns expressed by the Commissioners regarding house size on Lot 3 and suggested the possibility of two smaller houses rather than one larger home. Lot 1 would remain at 3,336 square feet, Lot 2 would be reduced to 3,230 square feet, and Lot 3 would have one house on the bottom half at 2,400 square feet and one house on the top half. Parking for four cars would be provided underneath the bottom house, and access for both houses would be from Sampson Avenue.

Since the Staff review was based on the proposal for three homes on three lots, Chair Child indicated that the Planning Commission should base their review on that proposal. Mr. Schneckloth preferred the proposal for one house on Lot 3 and explained that he had only offered the alternative as a possibility to satisfy the Planning Commission.

Commissioner Joe Tesch explained the issues involved for the benefit of the public. The applicant had taken six Old Town lots and suggested that they be reconfigured into three larger lots. The applicant had also requested home sizes that would fit within the code requirement for maximum size homes on the newly configured

lots, but the Planning Commission was struggling with the idea that the homes might be too large to be compatible with other structures in the neighborhood. Commissioner Tesch noted the possible traffic dangers involved with increased density on Sampson Avenue and noted that reducing the number of lots was a decent trade-off.

Chair Child clarified that the Commissioners favored the reduction in the number of lots, and the only obstacle was determining a reasonable house size. Commissioner Tesch was not certain that three lots was the right number. He felt the applicant had the misconception that the lower number of lots would receive more favorable review. Commissioner Tesch felt the Planning Commission wished to allow Mr. Schneckloth fair use of the property.

Commissioner Klingenstein was concerned with setting a precedent for incremental build-up in the area and suggested reducing the home sizes to 3,000 square feet on Lot 1, 3,500 square feet on Lot 2, and 3,000 square feet on Lot 3 in order to assure neighborhood compatibility.

Commissioner Jones concurred with Commissioner Klingenstein and remarked that the real issue was compatibility. The FAR's are maximum limits, and often applicants believe they are allowed to build homes to the maximum size without regard to the neighborhood. He requested that the conditions of approval reiterate that the overriding criteria for house size is neighborhood compatibility in both design issues and how the home fits on the lot relative to the neighborhood.

Commissioner Erickson noted that the proposed height did not meet the new height ordinance recommended at the previous Planning Commission meeting and questioned which height would be required. Director Lewis explained that the applicant would be required to comply with the height restriction in place at the time of building permit issuance. Commissioner Erickson clarified that the proposal would be reviewed by the Development Department for compliance with the Historic District Commission guidelines, and any appeal would be to the Historic District Commission.

Chair Child asked Director Lewis if the findings and conclusions of law should be changed if the Planning Commission approved the project with specified house sizes. Director Lewis explained that the matter would go to a public hearing before the City Council, and the information would be added as notes on the plat. The conditions approved by the Planning Commission would list all the information on the plat regarding house sizes and the Planning Commission's conclusions and findings would be included in the City Council report.

MOTION: Commissioner Chuck Klingenstein moved to APPROVE the Sampson Avenue Plat Amendment for 30, 40 and 50 Sampson Avenue as outlined by the Staff with an additional condition of approval stating that Lot 1 would have a maximum house size of 3,000 square feet, Lot 2 a maximum house size of 3,500 square feet, and Lot 3 a maximum house size of 3,000 square feet.

Chair Child clarified that the numbers pertained to the house size only and did not include a garage limit. Commissioner Klingenstein replied that a 400-square-foot garage was allowed.

Commissioner Diane Zimney seconded the motion.

The applicant stated that he had no objection and agreed to comply with the house sizes as stated in the motion.

VOTE: The motion passed unanimously.

Conditions of Approval - 30, 40, 50 Sampson Avenue

1. A note shall be required on the plat indicating that a modified 13-D sprinkler system shall be required and wood roofs are prohibited.
2. Prior to individual building permit issuance, complete plans for construction staging, construction parking, grading, erosion control and vegetation protection (LOD) shall be approved by the Community Development Department.
3. Prior to individual building permit issuance, the City Engineer shall review and approve all utility and construction plans. A 10-foot public non-exclusive utility easement shall be provided along Sampson Avenue for Lots 1 and 3. The following note shall be placed on the plat in regard to Lot 2:  
  
"In the event the house which exists on Lot 2 as of the date this plat is recorded is demolished or lost due to fire, earthquake, or other catastrophe, the owner of Lot 2 will, as a condition precedent to rebuilding a new structure, grant to Park City Municipal Corporation a 10-foot-wide non-exclusive public utility easement along and abutting Sampson Avenue."
4. Prior to plat recordation, the City Council, City Attorney, and City Engineer shall review and approve the plat.
5. All Standard Project Conditions shall apply.

6. The maximum house sizes shall be:
  - Lot 1 - 3,000 square feet
  - Lot 2 - 3,500 square feet
  - Lot 3 - 3,000 square feet

**2. Blockbuster Video CUP for Signage**

Planner Janice Lew reported that years earlier the Planning Commission spent some time reviewing signage for PayLess Drug located at 950 Ironhorse Drive. A total of 49 square feet of signage was approved by the Planning Commission with the following conditions:

- Only one sign was permitted.
- The Staff would approve final colors consistent with the color requirements of the Park City sign code.
- The sign would be externally illuminated.

The PayLess Drug sign consists of 24" letters painted a burnt red. Blockbuster Video is leasing a portion of the PayLess Drug building and is requesting approval of a master sign plan. The Blockbuster Video signage would include a primary sign. The applicants have proposed individual letters 24" in height with a yellow face totalling 46 square feet of signage. The sign would be located above the windows on the front facade of the building. An awning was proposed across the front of the building which would be burnt red to match the color scheme of the PayLess signage and would have the Blockbuster ticket logo in yellow. The signage on the awning would total 12.5 square feet.

Planner Lew indicated that the Staff had spent a great deal of time with the applicant working on the signage and was concerned with the proposal. The intent of the master sign plan was to create a common theme to tie design elements together. The Staff preferred that the Blockbuster Video signage match the color of the PayLess sign. She suggested that the Planning Commission consider a reduction in size so the Blockbuster sign would be subordinate to the main tenant signage. The Staff was also concerned with the awning which would create a dominant architectural feature on the left side of the building and an imbalance with no awning on the opposite side of the building. The Staff recommended that a smaller awning replace the large awning above the door and that the logo be permitted there for signage. The Staff also recommended that the yellow color be consistent with the Park City sign code.

Public input had not been received, and the Staff recommended approval of the master sign plan for the PayLess building with the findings, conclusions of law, and conditions of approval outlined in the staff report.

Debra M. Schneckloth  
P.O. Box 234  
Park City, UT 84060



March 30, 1998

Debra M. Schneckloth  
P.O. Box 234  
Park City, UT 84060

Dear Debra:

Your plat amendment to the Park City Survey regarding 30, 40 and 50 Sampson Avenue, which was approved by the City Council, with conditions, on February 2, 1995 specified the following maximum sizes for residential structures on the lots:

- Lot 1 - 3000 square feet
- Lot 2 - 3500 square feet
- Lot 3 - 3000 square feet

An additional 400 square feet may be added to the total floor area for a garage for each of the lots.

You recently inquired about the possibility of allowing basements in addition to the maximum house sizes specified on the lots. Since your plat amendment does not specifically prohibit basements, it is my determination that basements would be allowed provided they can meet the definition in the Land Management Code. A basement is defined as having all four walls at least 80% underground. Basements may not have an outside door (including a garage door) visible from the public right-of-way.

I apologize for any confusion the Community Development Department may have caused as we reviewed this issue. It took a few days to research how the building size has been determined on other plats. My determination is consistent with our present practice of calculating house sizes when they are specified on plats.

Sincerely,

Richard E. Lewis  
Community Development Director

M: CDD RE LETTER 1998 SCHNECKL001

00503794 Bk01134 Pg00399-00400  
ALAN SPRIGGS, SUMMIT COUNTY RECORDER  
1998 APR 07 11:28 AM FEE \$12.00 BY DMG  
REQUEST: DEBRA M SCHNECKLOTH

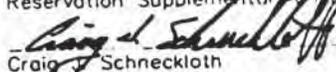
LEGAL DESCRIPTION

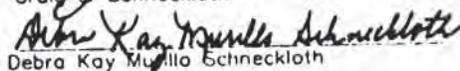
Beginning at the Northeast Corner of Lot 47, Block 78, Mill-site Reservation, The Park City Survey, and as recorded in Summit County, Utah; and running thence South 23°38' East along the Easterly line of said Lot 47, a distance of 1167 feet to the Westerly edge of an existing road, thence South 13°36'05" West along said Westerly edge, a distance of 200.84 feet; thence South 84° 42' 13" West, a distance of 26.80 feet; thence North 89°14'40" West, a distance of 54.85 feet to the Southerly line of Lot 8, Block 79, Mill-site Reservation; thence South 66°22' West along said Southerly line, a distance of 18.39 feet to a point being the common back corner of Lots 6 and 8, thence due North 225.32 feet along the Westerly line of Block 79, Mill-site Reservation, to the Westerly line of Utah Avenue as dedicated; thence North 66°22' East, a distance of 50.00 feet; to the Easterly line of said Utah Avenue as recorded; thence South 23°38' East, a distance of 65.67 feet along said Easterly line to the Northwest Corner of Lot 47, Block 78, Mill-site Reservation as recorded; thence North 66°34' East along the Northerly line of said Lot 47, a distance of 75.00 feet to the Point of Beginning.

Contains 0.58 acres more or less.

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents: That the undersigned are the owners of the herein described tract of land, and hereby causes the same to be divided into lots as set forth and shown hereon, hereafter to be known as Mill-site Reservation Supplemental Amended Plat.

  
Craig J. Schneckloth

  
Debra Kay Muriillo Schneckloth

00503794 Bk01134 Pg00400

Joint Tenants

## Planning Commission Staff Report



**Subject:** 30 Sampson Avenue  
**Project #:** PL-12-01487  
**Author:** Mathew Evans, Senior Planner  
**Date:** April 10, 2013  
**Type of Item:** Administrative – Steep Slope Conditional Use Permit

### Summary Recommendations

Staff recommends the Planning Commission review a request for a Steep Slope Conditional Use Permit at 30 Sampson Avenue. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.

### Description

**Applicant/Owner:** Michael Jorgensen  
**Architect:** Jonathan DeGray  
**Location:** 30 Sampson Avenue  
**Zoning:** Historic Residential - Low (HRL)  
**Adjacent Land Uses:** Residential, Vacant  
**Reason for Review:** Construction of structures greater than 1,000 square feet on a steep slope requires a Conditional Use Permit

### Proposal

This application is a request for a Steep Slope Conditional Use Permit for a new residence (home) to be located at 30 Sampson Avenue. The vacant lot is located within the Historic Residential Low (HRL) Zone designation. The HRL Zone requires that any new construction 1,000 square feet or greater, on slopes exceeding thirty percent (30%), first obtain a Conditional Use Permit for steep slope construction prior to the issuance of a building permit.



## **Background**

On January 5, 1995, the City Council approved the “30, 40, and 50 Sampson Avenue Amended Plat,” also known as the Millsite Supplemental Plat Amended Subdivision, which was a combination of thirteen (13) whole and partial lots as well as a portion of “Utah Avenue” within the original Millsite addition to Park City Subdivision Plat. The Plat was recorded with a note that limited the “maximum size for residential structures” to 3,000 square feet for Lots One (1) and Three (3), and 3,500 square feet for Lot Two (2). The conditions of approval reflect that there would be a 400 square foot “credit” for garages (see Exhibit “C”). This application is for Lot Three (3) of the Millsite Supplemental Plat Subdivision totaling 7,089 square feet.

On March 30, 1998, Community Development Director Richard E. Lewis wrote a letter to the owners of Lots 1, 2, and 3, clarifying that the maximum size for residential structures noted on the plat excluded basements as defined by the LMC, so long as no portion of the basement was above ground. The letter also clarified the additional 400 square feet of floor area garage allowance to the total square feet allowed. This letter is attached hereto as Exhibit “D”.

On February 14, 2012, the City received a completed application for a Conditional Use Permit (CUP) for “Construction on a Steep Slope” at 30 Sampson Avenue. The property is located in the Historic Residential Low (HRL) District. On April 9, 2012, the application was deemed “complete” and scheduled as a public hearing before the Planning Commission.

This application is a request for a Conditional Use Permit (CUP) for construction of a new single family dwelling including a detached garage. Because the total proposed structure square footage is greater than 1,000 square feet and would be constructed on a slope greater than thirty percent (30%), the applicant is required to file a CUP application for review by the Planning Commission, pursuant to LMC § 15-2.1-6. A Historic District Design Review (HDDR) application is being reviewed concurrently by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009. No action has been taken on the HDDR as the Steep Slope CUP process is required prior to the processing of the HDDR.

On August 22, 2012, this application came before the Planning Commission and Public Comment was taken at the same meeting (see meeting minutes attached as Exhibit “E”). The Planning Commission closed the Public Hearing and voted unanimously to continue the item to a date uncertain for the purpose of reviewing the existing definition of “stories”. The applicant has since requested to have the application put back before the Planning Commission for consideration of the Steep Slope CUP. In an effort to reduce the mass and scale of the garage, the applicant has re-designed the garage from a side-by-side two door configuration, to a one door tandem garage.

Also, based upon the Planning Commission’s subsequent discussions regarding the definition of stories, this application for a home with a detached garage appears to meet the three story requirement under the current definition in the code. The plans show a detached garage that includes an elevator, which connects to a patio area in front of the

house. Since the garage is detached, it does not violate the 3 story height restriction in the code.

The current LMC defines of a “story” as follows:

**15-15-1.249 STORY.** The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof Structure.

On December 12, 2012, the applicant came back before the Planning Commission on as a work session item, the minutes of which are attached hereto as Exhibit “F”. During the meeting, the Planning Commission brought up the following summary of potential issues related to the proposed Conditional Use Permit in no particular order. Staff notes are in *italics*:

- The comparison of existing houses on page 61 of the Staff report and suggested that the Staff also include the proposed project to the table to make it easier to compare. *Staff notes: This has been addressed.*
- Compatibility of the proposed home with existing historic structures is an issue based on the purpose statement of the HRL District, although it was acknowledged that larger structures had been constructed on Sampson Avenue in the past.
- 201 and 205 Norfolk Avenue properties should be discarded from the Existing Home Size Analysis due to the fact that they are not Sampson Avenue properties or located within the HRL District. *Staff notes: Staff included these properties for two reasons; both lots have driveway access to Sampson Avenue, and; 205 Norfolk Avenue is an adjacent property. Also noted by Staff is that the HR-1 District is actually less restrictive than the HRL in terms of minimum lot size, and allowed uses. Furthermore, Staff should point out that the adjacent Lot 1 of the Treasure Hill Subdivision, which is directly adjacent to the subject property, has an allowable footprint of 3,500 square feet per the Treasure Hill MPD. The proposed home at 30 Sampson is closer to the potential building sites of the Norfolk and King Road homes than it is to that of homes located on Sampson Avenue.*
- The proposed deck that connects the elevator to the main level of the home is a possible LMC violation because the deck attaches both buildings. The Planning Commission is concerned that this area could eventually be “filled in” to become one structure. *Staff note – The deck, so long as it is within the setback, can extend from one structure to another without violating the LMC. The deck is not counted towards the footprint of the home, and the deck is treated much the same way a patio would be, extending from one structure to another, again, so long as they are on the same property and so long as they are within the required setback area. There is no foundation for the deck, thus it is not technically adjoining the buildings together as one structure. Building Code does not regulate this issue because a deck is not a structure in the same way a building encloses and/or attaches living space. Staff cannot speak to the scenario of the area becoming a structure in the future because there is no way to anticipate what future LMC codes will allow the applicant to do with this area. If the codes*

were relaxed to allow greater footprint, etc., it is conceivable that more home additions would be proposed for any number of properties in old town.

- The story height of the proposed structures is compromised by the deck extension from the elevator to the top floor of the proposed home because connecting the two buildings would cause it to exceed three stories. *Staff notes: See previous Staff notes above. The deck extension from one building to another does not connect the two structures any more than a patio would or cement walkway would connect the two. The deck is not footprint and does not have a foundation.*
- The proposed facade of the home should be made to look and feel more historic in term of presentation. *Staff note – The Design Guidelines for Historic Districts and Historic Sites discourages the mimicking of historic design, but rather suggests that new homes and structures “compliment” existing historic structures nearby, in terms of like materials and form. The design of the proposed home has not been approved, and requires a Staff level review, as well as a Design Review Team review of the proposed elevations. The Planning Commission is not approving the design of the home, only the location, form, mass, scale, and other considerations as described in LMC § 15-2.1-6.*
- The proposed basement does not meet the requirement as stipulated in the letter from former Community Development Director Richard E. Lewis that clarified that the maximum size for residential structures noted on the plat excluded basements as defined by the LMC, so long as no portion of the basement was above ground. *Staff notes: The proposed basement is entirely underground with the only exposure coming from the building code-required window wells for emergency egress. The plans do not indicate that any portion of the proposed basement is above ground. Basements, as explicitly noted in CDD Lewis’ letter, are not counted into floor area calculations for residential properties.*
- Snow shedding onto adjacent property is a concern. *Staff note: This item has been addressed in the Conditions of Approval. The Building Official will have to review the proposed plans for snow shedding, which the applicant will have to prove mitigation for prior to the issuance of a building permit.*
- The LMC encourages homes on steep slopes be stepped with the grade and broken into a series of individual smaller components, as well as encourages detached garages, and that the applicant has done both, but the proposed structure is still incompatible with the volume and mass of surrounding homes. The design appears to comply with these requirements.
- The proposed home is across the street from 41 Sampson Avenue, and the proposal it is not compatible with respect to mass, scale, size, etc. *Staff note: The owner of 41 Sampson Avenue has plans to lift the home and place a basement foundation underneath, and also anticipates a historically compatible addition to the home. Staff has not seen the proposal and cannot speak to the actual size of the contemplated additions to the square feet; however the conceivable footprint based on lot size alone, is 1,830 square feet.*

### **Purposes of the HRL District**

The purpose of the Historic Residential Low-Density (HRL) District is to:

- (A) Reduce density that is accessible only by substandard Streets so these Streets are not impacted beyond their reasonable carrying capacity,
- (B) Provide an Area of lower density Residential Use within the old portion of Park City,
- (C) Preserve the character of Historic residential Development in Park City,
- (D) Encourage the preservation of Historic Structures,
- (E) Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods,
- (F) Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment, and
- (G) Define Development parameters that are consistent with the General Plan policies for the Historic core.

### **Analysis**

The proposed home is three (3) stories, including a basement level, a main level, and a top level. There is also a detached garage that includes an ADA accessible elevator building. The garage is not directly connected or attached to the home and is thus considered a detached accessory structure which is proposed to be built within the required setbacks for the main structure. The garage is setback from the elevator building by ten feet (10') and is setback thirty-two feet (32') from the main building. The highest point of the building is twenty-seven feet (27'), but at no point does the building exceed this height.

The total maximum allowed footprint per the LMC is 2,355.5 square feet. There is a plat note on the Millsite Reservation Supplemental Plat that restricts the maximum size of the structure to 3,000 square feet. A 1998 letter from former Community Development Director Richard E. Lewis, written to the owners of the Millsite Reservation Supplemental, plat clarified that the City Council granted an additional 400 square feet for a garage. In addition, Mr. Lewis determined that basements were permitted in addition to the maximum house size provided that the basement meets the definition in the Land Management Code. At the time a "Basement" was defined as having all four walls at least eighty percent (80%) underground and may not have an outside door visible from the public right of way. Our current Code defines Basement as "Any floor level below the First Story in a Building." The proposed basement level meets our new definition as found within LMC Section 15-15-1.

The applicant is proposing required two off-street parking spaces. There are two off-street spaces provided, one within the garage and one provided on an un-covered parking pad. In addition to the parking pad spot, the one-car garage is about two feet short of meeting the requirement for two tandem spaces so there would be parking for 3 vehicles albeit one would have to be small. A variation to the parking dimensions could be allowed by the City Engineer, but only two spaces are required, thus the applicant meets the minimum requirements for the two spaces.

The main home has a footprint of 1,189 square feet with a total of 3,601 square feet, and the total size of all the structures (excluding basement and 400 square feet for garage) is 2,996 square feet. The total space including the detached garage is 4,132

square feet. Below is an analysis of each floor and accounts for the total square footage of the entire project:

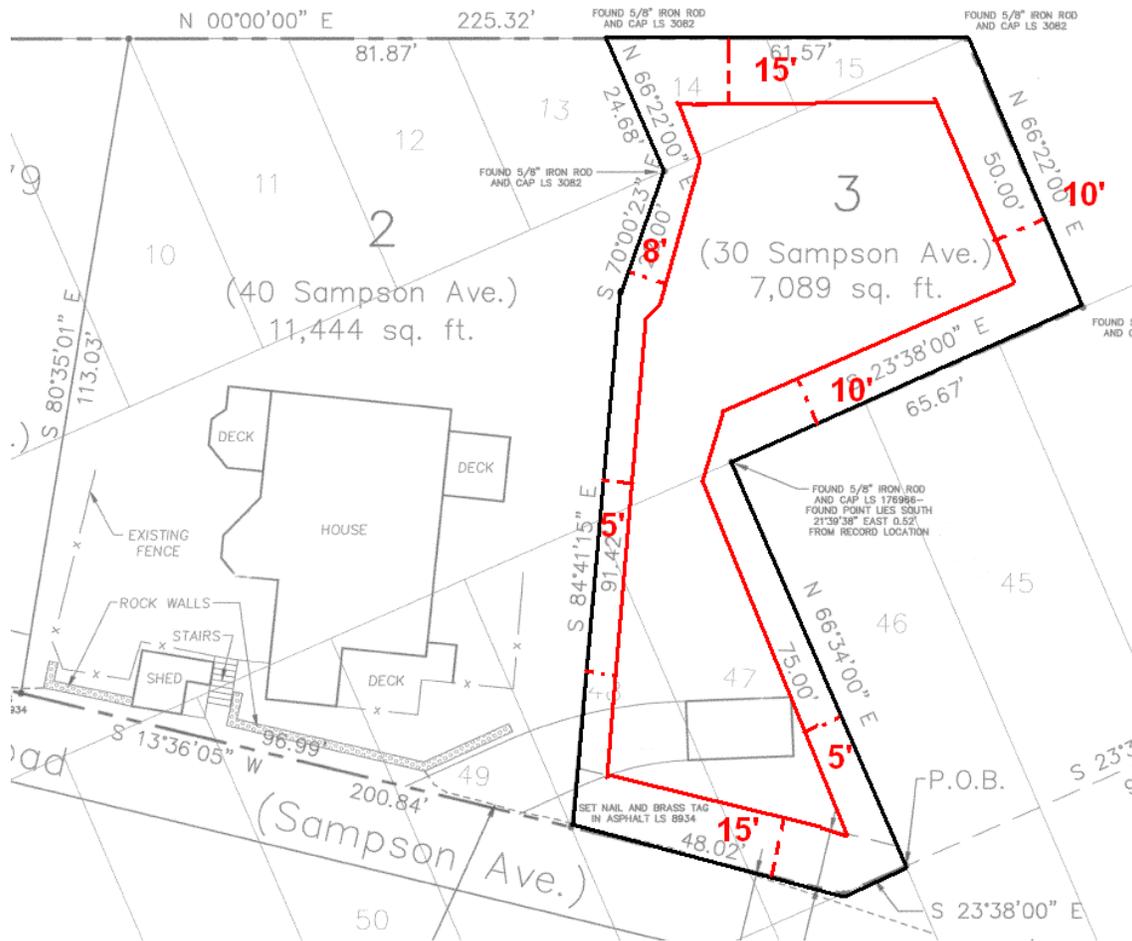
<b>Floor</b>	<b>Proposed floor area</b>
3 <sup>rd</sup> Story	1,209 square feet – Main (top) Level
2 <sup>nd</sup> Story	1,203 square feet – Lower Level
1 <sup>st</sup> Story	1,189 square feet – Basement
Garage/Accessory Building Area	453 square feet garage (400 sq ft allowance) 350 square feet – Garage Entry Area 180 square feet – Mud Room
Overall area	4,585 grand total square feet + garage
Overall size (excluding basement and 400sf for the garage)	2,996 square feet (above grade living space)
Total size above grade (including garage)	3,396 square feet total above grade including 400 sq ft garage allowance)

The LMC determines the proposed maximum building footprint size is determined by the LMC. The area of the lot is 7,089 square feet and under the LMC an overall building footprint of 2,380 square feet is allowed. A building footprint of 2,272 square feet is proposed, which includes the Garage entry Area.

Per Section 15-4-17 (Supplemental Regulations – Setback Requirements for Unusual Lot Configurations), all lots with more than four sides require a “Setback Determination” by the Planning Director. On October 11, 2011, Planning Director, Thomas Eddington determined that the lot has eight sides, and made the following setback determination for the subject property:

<b>Setback Determination</b>	
<b>Required Setbacks</b>	<b>Proposed Setbacks</b>
1. Front Yard – 15 feet (10 feet per LMC)	(East) Front – 15 feet (complies)
2. Side Yard south property line to “tapper” area (see diagram below) – 5 Feet (3 to 5 feet per LMC)	South Side-yard – 5 feet (complies)
3. Side Yard north property line to the southwest corner of Lot 46, Block 78 of the Subdivision #1 of the Millsite Reservation – 5 feet (5 feet per LMC)	North Side-yard – 5 feet (complies)
4. Combined Side Yards (north and south) of main portion of lot – 18 feet total, south-side shall be 8 feet; north-side shall be 10 feet (6 to 10 feet per	Combined north/south side-yard for main body of lot – 18 feet total (complies)

LMC)	
5. Rear Yard – 15 feet (10 feet per LMC)	Rear yard – 15 feet (complies)
6. North Side Yard property line – 10 feet (5 feet per LMC)	Side-yard north for main portion - 10 feet (complies)
7. West Side Yard property line – 10 feet (10 feet per LMC)	Side-yard west property line – 10 feet (complies)



The above ground square footage equates to sixty-nine percent (69%) of the total building size with the remaining 1,189 square feet of building space located underground. The total square footage (including the garage) above ground is 3,396 square feet which is compliant with the 1998 clarification letter written by Community Development Director Lewis.

Staff made the following LMC related findings:

Requirement	LMC Requirement	Proposed
Building Footprint	2,355.5 square feet (based on lot area) <u>maximum</u>	2,272 square feet, <u>complies.</u>
Building Square Foot Maximum	No LMC Requirement – 3,000 square feet per plat note	4,587 square feet, complies per allowed exceptions (minus 1, 189 sq. ft. basement and 400 sq ft garage = 2,998).
*Front and Rear Yard	10 feet minimum (20 feet total) 15 feet per Planning Director	15 feet (front), <u>complies.</u> 15 feet (rear), <u>complies.</u>
*Side Yard	5 feet minimum, (10 feet total)	*Various – see notes
Height	27 feet above existing grade, <u>maximum.</u>	Various heights all less than 27 feet, <u>complies.</u>
Number of stories	A structure may have a maximum of three (3) stories.	3 stories, <u>complies.</u>
Final grade	Final grade must be within four (4) vertical feet of existing grade around the periphery of the structure.	4 feet or less, <u>complies.</u>
Vertical articulation	A ten foot (10') minimum horizontal step in the downhill façade is required for the third story unless the 1 <sup>st</sup> story is completely below finished grade.	First (1 <sup>st</sup> ) story completely under finished grade, garage is detached, <u>complies.</u>
Roof Pitch	Roof pitch must be between 7:12 and 12:12 for primary roofs. Non-primary roofs may be less than 7:12.	7:12 for all primary roofs <u>complies.</u>
Parking	Two (2) off-street parking spaces required	1 covered + 1 additional uncovered space, <u>complies.</u>

\* Planning Director Determination of setbacks based on the fact that the lot has more than four sides. Planning Director can require greater setbacks in this instance.

Existing Home Size Analysis – Neighboring Properties  
(based on Summit County Records available to Staff as of 12-7-12)

Address	House Size + garage (sq. ft.)	Footprint (total sq. ft. estimate)	Total Size (sq. ft.)	Lot Size (total ac/sq. ft.)
205 Norfolk	7,711 + 612	3,200	8,323	.38 or 16,553
201 Norfolk	4,286 + 546	2,165	4,832	.14 or 6,115
16 Sampson*	3,684 + 457	2,160	4,141	.14 or 6,100
40 Sampson	(Unknown) + 0	1,746	0**	.26 or 11,444
41 Sampson	908 + 0	908 (1,830 possible)	908	.11 or 4,792
50 Sampson	3,674 + 500	1,830	4,174	.16 or 6,970
60 Sampson	3,800 + 446	1,900	4,246	.15 or 6,534
99 Sampson	2,990 + 500	1,500	3,490	.10 or 4,560
121 Sampson	1,854 + 0	680	1,854	.15 or 6,534
131 Sampson	2,085 + 240	750	2,325	.14 or 6,098
133 Sampson	2,593 + 626	1,200	3,219	.09 or 3,920
135 Sampson	3,014 + 484	560	3,498	.13 or 5,600
<b>30 Sampson</b>	<b>3,471 + 1114</b>	<b>2,272</b>	<b>4,585</b>	<b>.16 or 7,089</b>

\*HDDR and SS-CUP previously approved, but the home is not yet built.

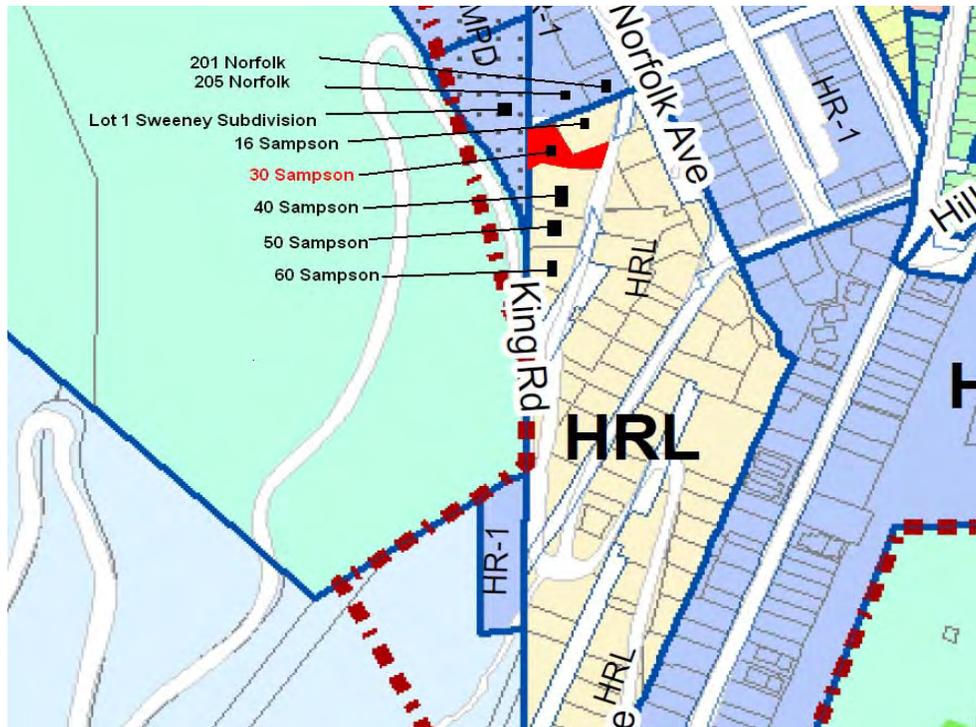
\*\*Not used to calculate average home size below, however lot size and footprint were used.

Based on the analysis above with the numbers available to Staff through City and County records available on this date, the average total home size for the adjoining properties and the Sampson Avenue properties is 3,728 square feet, the average lot size is .16 acres, and the average footprint is approximately 1,550 square feet.

It is important to note that the subject property is 7,089 square feet, which would be the second largest lot on Sampson Avenue. Only 40 Sampson Avenue has a bigger lot (11,444 square feet), and the next closest in size is 50 Sampson Avenue with a 6,970 square foot lot. The home size of 40 Sampson Avenue is unknown, but county records show a footprint of 1,746 square feet (a portion of the house is two stories), and 50 Sampson Avenue is 4,074 with a footprint of 1,830 square feet.

Considering the proposed location of the proposed home on Sampson Avenue, all adjacent properties should be considered in the analysis, not just the Sampson Avenue properties. The proposed home will actually be situated closer to 205 Norfolk and the any future home built on Lot 1 of the Treasure Hill Subdivision, which sits directly to the west of (above) 30 Sampson Avenue. Thus the existing footprint and home size of 201

and 205 Norfolk are included. It is also important to consider the potential of Lot 1 of the Treasure Hill Subdivision has an allowed footprint of 3,500 square feet (per the Treasure Hill MPD). As previously noted, 201 and 205 Norfolk Avenue (as well as Lot 1 Treasure Hill) are in the HR-1 District, which is less restrictive than the HRL District with respect to lot size and allowed uses (see illustration below).



The subject lot was created by the Millsite Supplemental Plat Amended Subdivision, which was a combination of 13 whole and partial lots, and a portion of “Utah Avenue” within the original Millsite addition to Park City Subdivision Plat. The plat amendment reduced the overall density in terms of dwelling units on the substandard streets consistent with the purpose statements for the HRL zone.

LMC § 15-2.1-6 provides for development on steep sloping lots in excess of one thousand square feet (1,000 sq. ft.) within the HRL District, subject to the following criteria:

Criteria 1: Location of Development.

Development is located and designed to reduce visual and environmental impacts of the Structure. **No unmitigated impacts.**

The proposal is for a new single family dwelling with a proposed footprint of 2,272 square feet. The proposal includes a two car garage at the bottom of the slope along the frontage of the lot. The home will be built uphill from the street. The lot is wide at the street level but narrows before opening up to the most substantial portion of the lot. The lot was approved in 1995. The City was aware of the odd-shape of the lot at that time. The vast majority of buildable area is on the upper portion of the lot. There is no conceivable way to build a driveway that would meet the LMC requirements that limits the maximum slope to fourteen percent (14%) as measured from Sampson Avenue to

the upper portion of the lot. The prohibiting factors are the shape and slope of the lot, as it exceeds thirty percent (30%) at its most narrow portion.

The proposed coverage of the building is thirty-one percent (31%) of the overall lot. The applicant is proposing to plant forty (40) new trees on the property, and there is some existing native vegetation located on the lot, some of which will be disturbed; however, there are no large native trees or evergreens identified on the property, and the level of disturbance of existing vegetation will be mitigated by the planting of new vegetation as shown on the attached plans (sheet A02 of Exhibit A).

#### Criteria 2: Visual Analysis.

The Applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points to determine potential impacts of the project and identify potential for screening, slope stabilization, erosion mitigation, vegetation protection, and other items. **No unmitigated impacts.**

The applicant submitted a visual analysis, including renderings, showing a contextual analysis of visual impacts (see exhibit "B"). The proposed structure cannot be seen from the key vantage points as indicated in the LMC Section 15-15-1.283, with the exception of a cross canyon view. The cross canyon view contains a back drop of two (2) story building with a garage building below. Visual impacts from this vantage point are mitigated by the amount of vegetation surrounding this area and on the subject property, as well as the breaking up of the massing of the house into upper and lower sections.

For the purpose of visual analysis it's also important to keep in mind that there are two more homes to be built in the area that are directly adjacent to the subject property, 16 Sampson Avenue, which is roughly the same size as 30 Sampson Avenue, and Lot 1 of the Treasure Hill Subdivision, which is approved for a 3,500 square foot footprint. Lot 1 of Treasure will be built at a higher elevation, and roughly adjacent to the location of the 30 Sampson Home. When built, the Lot 1 Treasure Hill home could potentially tower over 30 Sampson considering it is higher up the hillside, and has a much larger allowable footprint.

#### Criteria 3: Access.

Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Common driveways and Parking Areas, and side Access to garages are strongly encouraged, where feasible. **No unmitigated impacts.**

The proposed design incorporates a driveway from Sampson Avenue. The applicant is proposing retention on both sides of the driveway. The driveway access will be located on the south side of the lot where the finished grade of the street and the natural grade of the lot are closest in elevation. Again, as proposed, there will be minor retention of the driveway on both sides, although the access points and driveways are designed to minimize Grading of the natural topography and reduce the overall Building scale.

The driveway has a maximum slope of nine percent (9%). The applicant is proposing a one-car garage (not quite legal for two spaces within the garage) and one additional uncovered parking space provided on a pad adjacent to the garage, which will provide a total of two legally recognized parking spaces. The LMC requires two (2) off-street parking spaces. Because Sampson Avenue is an extremely narrow street, there is no available on-street parking. This means that the owners and guests will need to park on-site and parking is provided on site for this.

#### Criteria 4: Terracing.

The project may include terraced retaining Structures if necessary to regain Natural Grade. **No unmitigated impacts.**

No terracing is proposed. The applicants are proposing to build on the two flat areas of the lot, which will require some initial grading and site stabilization (not terracing). The end result will be that the grading between the garage and the house will be put back to its natural state. Grading around the home will be utilized to stabilize the ground around the foundation and to help separate the backyard area from the front yard area.

#### Criteria 5: Building Location.

Buildings, access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and provide variation of the Front Yard. **No unmitigated impacts.**

The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. The proposed house sits on the uphill side of the lot where there is area with less than thirty percent (30%) slope on which to build. The existing eight-sided lot was approved in 1995 as a recorded subdivision lot. The lot is somewhat hourglass-shaped with a vast majority of the buildable area located in the rear of the lot. The street side of the lot has limited building area available which has dictated the location of the proposed home. The site design, reduced building footprint (smaller than what is allowed per code), and increased setbacks (to the code minimums established in the HRL District) maximize the opportunity for open area and natural vegetation to remain. Although the proposed home will be located on Sampson Avenue, it will appear as though it's grouped together with the larger homes on King Road within the Treasure Hill subdivision. As previously noted, the home will be closer to Lot 1 of Treasure Hill, which has an allowable footprint of 3,500 square feet, than it will be to the smaller, historic homes on Sampson Avenue. Only the garage will have a "presence" on Sampson Avenue.

#### Criteria 6: Building Form and Scale.

Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the

Planning Commission may require a garage separate from the main Structure or no garage. **No unmitigated impacts.**

The top floor of the home walks out to the existing grade of the top of the lot, and the main floor walks out to the existing downhill side of the lot. There is a minimal retaining wall on each side of the home to differentiate the rear and front yard. The Structures step with the Grade and are broken in to a series of individual smaller components Compatible with the District.

The garage is detached and completely subordinate to the main home and the design of the main building. The home and garage/elevator building are separated by a ten foot (10') setback. Only the elevator building connects directly to the garage and is only accessible to the home by a patio and deck area, which is considered flatwork and is not connected by foundation. The connection between the garage the elevator is completely underground and not visible. Only two (2) stories of the proposed home are exposed, with the basement completely underground with no portion thereof expose.

The top level (3<sup>rd</sup> story) consists of approximately 1,209 square feet, approximately one-half (½) of the total allowed above-ground square feet, and the exposed massing significantly steps with the hillside. The lower level contains 1,203 square feet which is above ground, the remaining 1,189 square feet of building space is under ground. The garage is 546 square feet (total w/mudroom and entry way) which is above ground and steps between 17to 24 feet in height.

#### Criteria 7: Setbacks.

The Planning Commission may require an increase in one or more Setbacks to minimize the creation of a “wall effect” along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures. **No unmitigated impacts.**

The proposed location of the home on the property, including the placement of the garage angled to parallel the lot line, avoids the “wall effect” along the street. The actual dwelling is approximately seventy-seven feet (77') from the front property line, although the garage is fifteen feet (15') and the elevator building is approximately fifty-three feet (53') from the front setback. By breaking up the massing into smaller components the “wall effect” is avoided.

#### Criteria 8: Dwelling Volume.

The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.

#### **Discussion Requested.**

The proposed house is both horizontally and vertically articulated and broken into compatible massing components. The design includes two detached buildings; the increased setbacks (per the Planning Director’s Setback Determination per LMC Section 15-4-17) offer variation and the proposed lower building height for portions of

the structure reduces visual mass. Since the submittal of the initial design, the applicant has redesigned the garage to a one-door bay with a tandem garage, rather than two separate side-by-side garage doors. Does the Planning Commission believe a reduction in mass is necessary? A change, or increase in building articulation that would still be compliant with setbacks, or does the unique shape of the lot compensate for this?

#### Criteria 9: Building Height (Steep Slope).

The maximum Building Height in the HR-1 District is twenty-seven feet (27'). The Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing residential Structures. **Discussion Requested.**

The proposed home does meet the twenty-seven feet (27') maximum building height requirement measured from existing grade. The unique shape of the lot has dictated the design of the home, with the garage portion close to the street, and the main structure (home) to be situated further up the hill where the vast majority of the buildable area exists. The garage and the house as they appear on the color rendering appear to create a significant mass – does the Planning Commission believe this is compatible with the neighborhood, considering two adjacent homes (one within the same zone district) are larger? The applicant has noted that the home will likely not be visible from the Street to those passing by due to the location of the home further up the hill. It is also conceivable that a home could be built above 30 Sampson, as Lot 1 of the Treasure Hill Subdivision is a buildable, vacant lot with a conceivably much larger footprint than that of 30 Sampson's footprint.

Portions of the house are less than 27' in height. The tallest portion of the house is on the front (uphill) side of the lot facing the street view. The garage building has a maximum height of twenty four feet (24') accommodate access to an ADA compliant elevator.

#### Process

Approval of this application constitutes Final Action that may be appealed to the City Council following the procedures found in LMC § 15-1-18. Approval of the Historic District Design Guideline compliance is noticed separately and is a condition of building permit issuance.

#### Department Review

This project has gone through an interdepartmental review. The Building Department determined that due to the narrow lot configuration between the front and rear, a construction mitigation plan will be required prior to construction that details how the applicant will protect and stabilize all adjacent property lines so that disturbance of other properties will not occur. This shall be a condition of approval.

## **Public Input**

Staff had received various inquires and comments regarding the proposed Conditional Use Permit. Neighboring property owner, Debbie Schneckloth, has meet with Staff on three occasions to raise various concerns, including:

- The need for retaining walls between her property and the subject property – Ms. Schneckloth is concerned the proposal inadequately addresses on-site retention, which will be required to the satisfaction of the Building Department prior to the issuance of a building permit.
- Incorrect driveway grades – Ms. Schneckloth is concerned that the plans do not accurately reflect existing grades and is incredulous that a driveway that starts at Sampson Avenue with a rise of 10% can be achieved. She is worried that the architect's drawing are inaccurate, and the grade at Sampson is greater than shown on the plans.
- Future subdivision plans – Ms. Schneckloth is concerned that the applicant may try and acquire more property to the west and attempt to subdivide the lot at some point in the future creating a frontage on King Road (there is none at this point), and that the plans are designed in such a manner that will accommodate future subdivision plans.

Since the last meeting, the applicant has revised the site plan and landscape plan to address many of the concerns raised by Ms. Schneckloth (see Exhibit "A" pages 1 and 2). An e-mail from Ms. Schneckloth was forwarded to the Planning Commission on March 11, 2013.

## **Alternatives**

- The Planning Commission may approve the Steep Slope Conditional Use Permit for 30 Sampson Avenue as conditioned or amended, or
- The Planning Commission may deny the Steep Slope Conditional Use Permit and direct staff to make Findings for this decision, or
- The Planning Commission may request specific additional information and may continue the discussion to a date uncertain.

## **Significant Impacts**

There are no significant fiscal or environmental impacts from this application.

## **Consequences of not taking the Suggested Recommendation**

A Conditional Use is an approved use with specific conditions to mitigate potential impacts of the proposed development. If denied, the applicant would not be able to move forward with the Historic District Design Review. The Planning Commission should consider approving the Steep Slope CUP with specific conditions of approval to mitigate any of the impacts as outlined in LMC § 15-2.1-6.

## **Recommendation**

Staff recommends the Planning Commission review a request for a Steep Slope Conditional Use Permit at 30 Sampson Avenue. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.

### **Findings of Fact:**

1. The property is located at 30 Sampson Avenue.
2. The property is within the Historic Residential (HRL) District and meets the purposes of the zone.
3. The property is Lot 3 of the Millsite Reservation Supplemental Plat, which was recorded in 1995.
4. The Lot area is 7,088 square feet.
5. A Historic District Design Review (HDDR) application is currently being reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
6. The proposal consists of single family dwelling of 4,585 square feet which includes a 453 square foot detached garage, a 350 square foot garage entry and a 106 square foot access tunnel which is located below ground.
7. Plat notes indicate the maximum square footage allowed for this lot is 3,000 square feet with an additional allowance of 400 square foot for a garage.
8. A subsequent 1998 letter from the (then) Community Development Director determined that the 3,000 square foot maximum only applied to the above ground portion of the future dwelling, and that basement areas would not count against the 3,000 square foot maximum. This letter was recorded on the title of the property.
9. The applicant meets the 3,000 square foot house size maximum as recorded on the plat notes of the Millsite Reservation Amended Plat with the further clarification of the 400 square foot allowance for a garage and non-calculated basement area as long as the basement is located below the final grade.
10. An overall building footprint of 2,272 square feet is proposed. Under the current LMC, the maximum allowed footprint is 2,355.5 square feet, based on the total lot area.
11. The proposed home includes three (3) stories including a completely below grade basement level.
12. The proposed home and detached garage, are not considered a single structure and the proposed configuration is consistent with requirements of the LMC regarding the number of allowed stories within a structure.
13. The applicant submitted a visual analysis, including a model, and renderings showing a contextual analysis of visual impacts.
14. The proposed structure will not be seen from the key vantage points as indicated in the LMC Section 15-15-1.283, with the exception of a cross canyon view from the corner of the Main Street Trolley turn-around (Hillside Ave/Main Street/Daly Ave intersection), which is largely mitigated by the presents of dense vegetation and trees.
15. The cross canyon view contains a back drop of a two (2) story building and a 2 story garage below the home.
16. The proposed design incorporates a driveway from Sampson Avenue on the top slope of the street to avoid excessive cuts and grading for the proposed driveway.
17. Retaining is necessary around the home on the upper-side of the lot. The plans as shown indicate that there will be retaining walls around much of the site, but there will be no free-standing retaining walls that exceed six feet in height.

18. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography and will leave more than half of the lot undeveloped.
19. The site design, stepping of the building mass, reduced building footprint, and increased setbacks maximize the opportunity for open area and natural vegetation to remain.
20. As required by the LMC, the applicant is providing two legal off street parking spaces, including one legal covered space, and one legal pad-site space. There is no on-street parking available on Sampson Avenue due to its narrow width, although it is conceivable that one or two more cars could be parked on site depending upon size.
21. The detached garage/elevator building is set back fifteen feet (15') from the front property line, and the main portion of the building (the habitable portion of the overall dwelling) is located approximately 77 feet from the street.
22. 2,996 square feet of the total 4,041 square feet of building space is above ground.
23. 1,594 square feet of building space is under ground, which equates to thirty-six percent (36%) of the overall square footage.
24. The lot has been deemed to have eight (8) different sides, and thus a Planning Director determination for setbacks has previously been determined and calculated as outlined within the analysis section of the report.
25. The design includes setback variations (greater than those required within the HRL District) and lower building heights (than is allowed by code) for portions of the structure.
26. The proposed massing and architectural design components are compatible with both the volume and massing of other single family dwellings in the area.
27. The proposed structure meets the twenty-seven feet (27') maximum building height requirement measured from existing grade. Portions of the house are less than 27' in height.
28. Lot 1 of the Treasure Hill Subdivision, which is directly adjacent to the Subject property, has an allowed footprint of 3,500 square feet, and when built and if built to the maximum height and footprint, any future home on that property will appear visually much larger than the proposed home on 30 Sampson Avenue.
29. The findings in the Analysis section of this report are incorporated herein.
30. The applicant stipulates to the conditions of approval.
31. The necessary removal of vegetation from the site to accommodate the building will be mitigated by the installation of approximately forty (40) trees, seventy (70) shrubs and other plantings mixed with ground cover. A final landscape plan addressing the removal of existing vegetation and a replacement plan is required prior to the granting of a building permit. No significant trees (large evergreens or otherwise) are proposed to be removed.

### **Conclusions of Law:**

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(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:**

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. A final utility plan, including a drainage plan for utility installation, public improvements, and drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
5. A final landscape and vegetation replacement plan shall be submitted for review and approved by the City Planning Department, prior to building permit issuance.
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the 2009 Design Guidelines for Historic Districts and Historic Sites.
7. If required by the Chief Building official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer.
8. This approval will expire on April 10, 2014, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval is applied for before the expiration and is granted by the Planning Director.
9. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on March 4, 2013.
10. All retaining walls within any of the setback areas shall not exceed more than six feet in height measured from final grade. Front setback retaining walls are limited to four feet, unless reviewed by the City Engineer for walls up to six feet. Walls over 6 feet require an administrative CUP, though none are anticipated.
11. A snow shed agreement and/or snow shed mitigation shall be required, and is required to meet the satisfaction of the Chief Building Official prior to the issuance of the building permit for the home.

**Exhibits**

Exhibit A – Stamped Survey and Plans (site plan, elevations, floor plans, landscape plan) and Aerial Map

Exhibit B – Visual Analysis

Exhibit C – City Council Meeting Minutes for the Millsite Reservation Supplemental Plat.

Exhibit D – Richard E. Lewis letter to property owner(s) of the Millsite Reservation Supplemental Plat.

Exhibit E – August 22, 2012 Planning Commission meeting Minutes.

Exhibit F – December 12, 2012 Planning Commission Work Session Minutes.

# JORGENSEN RESIDENCE

## HISTORIC DISTRICT DESIGN REVIEW / STEEP SLOPE CONDITIONAL USE APPLICATION SET

### 30 SAMPSON AVENUE PARK CITY, UTAH 84060

#### CONSULTANTS

Jonathan DeGray  
A r c h i t e c t

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JORGENSEN RESIDENCE  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPSON AVENUE, PARK CITY, UTAH 84060

#### LEGEND

	BRICK & STONE	OFFICE	ROOM NAME
	EARTH	103	ROOM NUMBER
	CONCRETE		FLOOR, POINT ELEV.
	CONCRETE MASONRY UNIT		CENTER LINE
	STEEL (LARGE SCALE)		ROUND, DIA.
	RIGID INSULATION		CHANNEL
	ROUGH WOOD		ANGLE
	BLOCKING		DETAIL
	ALUMINUM (LARGE SCALE)		SECTION CUT, DETAIL
	GRAVEL		BUILDING SECTION
	FINISHED WOOD		KEYED NOTES
	BATT OR BLOWN INSULATION		WINDOW TYPE
	PLASTER, SAND, GROUT, MORTAR		DOOR NUMBER
	STEEL (SMALL SCALE)		REVISION
	BITUMINOUS PAVING		INTERIOR WALL ELEV.
	PLYWOOD		WALL TYPE
	GYPSUM BOARD		

#### ABBREVIATIONS

A/C	AIR CONDITIONING	F.D.	FLOOR DRAIN	PR.	PAIR
ACOUST.	ACOUSTICAL	FND	FOUNDATION	R.D.	ROOF DRAIN
ADD.	ADDENDUM	FIN.	FINISH	REG.	REGULAR
ADJ.	ADJUSTABLE	F.R.	FLOOR	R.S.	ROUGH-SAWN
ALLOW.	ALLOWANCE	F.R.	FIRE RATED	R.A.D.	RADIUS
ALUM.	ALUMINUM	FTG.	FOOTING	REINF.	REINFORCING
APPROX.	APPROXIMATE	G.	GAS	REQD.	REQUIRED
B.D.	BOARD	G.I.	GALVANIZED IRON	REV.	REVISED
B.U.	BUILT-UP	GA.	GAUGE	R.M.	ROOM
B.W.	BOTH WAYS	GALV.	GALVANIZED	R.O.	ROUGH OPENING
BLDG.	BUILDING	GRD.	GRADE	S & R	SHELF AND ROD
BLK.	BLOCK	G.W.B.	GYPSUM WALL BOARD	S.C.	SOLID CORE
BRK.	BRICK	G.L.B.	GLU-LAM BEAM	SCHED.	SCHEDULE
CI.	CAST IRON	H.B.	HOSE BIBB	SHEET	SHEET
C.I.	CONTROL JOINT	HD.	HEAD	SIM.	SIMILAR
C.M.U.	CONCRETE MASONRY UNIT	H.M.	HOLLOW METAL	SPEC.	SPECIFICATION
CLG.	CEILING	HOR.	HORIZONTAL	STD.	STANDARD
COL.	COLUMN	I.D.	INSIDE DIAMETER	STL.	STEEL
COMP.	COMPACTED/COMPOSITE	INT.	INTERIOR	STRUCT.	STRUCTURAL
CONC.	CONCRETE	IRRIG.	IRRIGATION	SYS.	SYSTEM
CONST.	CONSTRUCTION	INSUL.	INSULATION	T & B	TOP AND BOTTOM
CONTR.	CONTRACTOR	J.	JAMB	T & G	TONGUE AND GROOVE
CONT.	CONTINUOUS	JNT.	JOINT	T.O.	TOP OF
D.F.	DRINKING FOUNTAIN/DOUGLAS FIR	M.R.	MOISTURE RESISTANT	T.O.F.	TOP OF FOOTING
DIA.	DIAMETER	MANFR.	MANUFACTURER	T.O.W.	TOP OF WALL
DIM.	DIMENSION	MAX.	MAXIMUM	TYP.	TYPICAL
DN.	DOWN	MECH.	MECHANICAL	T.S.	STEEL TUBE COLUMN
DWG.	DRAWING	MIN.	MINIMUM	UNLESS NOTED OTHERWISE	
DTL.	DETAIL	NV.	NEW	VERT.	VERTICAL
E.A.	EACH	N.I.C.	NOT IN CONTRACT	VENT.	VENT THRU ROOF
E.F.	EXHAUST FAN	N.T.S.	NOT TO SCALE	W.	WATER
E.I.F.S.	EXT. INSUL. FINISH SYSTEM	NO.	NUMBER	WD.	WOOD
E.J.	EXPANSION JOINT	O.C.	ON CENTER	W/	WITH
ELEC.	ELECTRICAL/ELECTRICAL	O.D.	OUTSIDE DIAMETER	WP.	WATERPROOF
ELEV.	ELEVATION	OF.D.	OVERFLOW DRAIN	W.R.	WATER RESISTANT
EQ.	EQUAL	OPNG.	OPENING	W.H.	WATER HEATER
E.T.	EXPANSION TANK	PLYWD.	PLYWOOD	W.S.	WATER SOFTNER
EXIST. (E)	EXISTING	PNT.	PAINT	W.W.F.	WELDED WIRE FABRIC
EXT.	EXTERIOR	PNTD.	PAINTED	W.W.M.	WOVEN WIRE MESH

#### CODE ANALYSIS

<p><b>APPLICABLE CODES</b> 2009 IRC 2009 IPC 2009 IMC 2011 NEC 2009 IFGC 2009 IECC 2009 IFC</p> <p><b>OCCUPANCY: R2</b></p> <p><b>CONSTRUCTION TYPE: VB</b> BUILDING TO BE FIRE SPRINKLED: CONTRACTOR TO PROVIDE APPROVALS PRIOR TO INSTALLATION.</p> <p><b>ALLOWABLE AREA</b> ABOVE GRADE LIVING AREA: 3,000 S/F (PER PLAT APPROVAL) GARAGE ALLOWANCE 400 S/F (PER PLAT APPROVAL) MAX. ALLOWED FOOTPRINT AREA: 2,355.5 S/F (PER LMC)</p> <p><b>AREA CALCULATIONS</b> LOT AREA: 7,088.39S/F FOOTPRINT AREA: 2,272 S/F</p>	<table border="1"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">AREA SQUARE FOOT CALCULATIONS</th> <th rowspan="2">GARAGE 400 ALLOWABLE</th> </tr> <tr> <th>BELOW GRADE</th> <th>ABOVE GRADE</th> </tr> </thead> <tbody> <tr> <td>GARAGE</td> <td></td> <td></td> <td>453 - 400 = 53</td> </tr> <tr> <td>ENTRY</td> <td></td> <td></td> <td>350</td> </tr> <tr> <td>MUD ROOM</td> <td></td> <td></td> <td>181</td> </tr> <tr> <td>BASEMENT</td> <td>1189</td> <td></td> <td></td> </tr> <tr> <td>LOWER</td> <td></td> <td>1203</td> <td></td> </tr> <tr> <td>MAIN</td> <td></td> <td>1209</td> <td></td> </tr> <tr> <td>TOTALS</td> <td>1189</td> <td>2412</td> <td>584</td> </tr> <tr> <td colspan="4">TOTAL ABOVE GRADE AREA = 2996 S/F</td> </tr> <tr> <td colspan="4">TOTAL LIVING AREA = 4132 S/F (excludes garage)</td> </tr> </tbody> </table>		AREA SQUARE FOOT CALCULATIONS		GARAGE 400 ALLOWABLE	BELOW GRADE	ABOVE GRADE	GARAGE			453 - 400 = 53	ENTRY			350	MUD ROOM			181	BASEMENT	1189			LOWER		1203		MAIN		1209		TOTALS	1189	2412	584	TOTAL ABOVE GRADE AREA = 2996 S/F				TOTAL LIVING AREA = 4132 S/F (excludes garage)			
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LOWER		1203																																									
MAIN		1209																																									
TOTALS	1189	2412	584																																								
TOTAL ABOVE GRADE AREA = 2996 S/F																																											
TOTAL LIVING AREA = 4132 S/F (excludes garage)																																											

#### INDEX TO DRAWINGS

#	SHEET #	SHEET DESCRIPTION
1	Aa	COVER SHEET
2	1 of 1	TOPOGRAPHIC MAP
		ARCHITECTURAL
3	A0.1	ARCHITECTURAL SITE PLAN
4	A0.2	LANDSCAPE PLAN
5	A1.1	GARAGE LEVEL PLAN
6	A1.2	BASEMENT LEVEL PLAN
7	A1.3	LOWER LEVEL PLAN
8	A1.4	MAIN LEVEL PLAN
9	A1.5	ROOF PLAN
10	A2.0	STREETSCAPE ELEVATION
11	A2.1	NORTH AND SOUTH ELEVATIONS
12	A2.2	EAST AND SOUTHWEST ELEVATIONS
13	A2.3	WEST ELEVATION
14	A2.4	GARAGE SOUTHEAST AND NORTHEAST ELEVATIONS
15	A2.5	HOUSE AND GARAGE SOUTH ELEVATION
16	A3.1	BUILDING SECTIONS

#### GENERAL NOTES

1. THIS DESIGN IS AN ORIGINAL UNPUBLISHED WORK AND MAY NOT BE DUPLICATED, PUBLISHED AND/OR USED WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT/ENGINEER.
2. THESE SHEETS - LISTED BY DRAWING INDEX, ALL ACCOMPANYING SPECIFICATIONS FOR MATERIALS, WORKMANSHIP QUALITY, AND NOTES HAVE BEEN PREPARED SOLELY FOR THE CONSTRUCTION AND FINISH OF PROJECT IMPROVEMENTS, COMPLETE AND READY FOR OCCUPANCY AND USE.
3. ALL WORK IS TO BE PERFORMED IN ACCORDANCE WITH PERTINENT JURISDICTIONAL CODES, RESTRICTIONS, COVENANTS, AND/OR ORDINANCES. ANY CONFLICT BETWEEN DESIGN AND REQUIREMENT SHALL BE REPORTED TO THE ARCHITECT/ENGINEER BEFORE PROCEEDING.
4. ANY AND ALL PROPOSED CHANGE, MODIFICATIONS AND/OR SUBSTITUTION SHALL BE REPORTED TO THE ARCHITECT/ENGINEER BEFORE PROCEEDING.
5. IN THE EVENT OF CONFLICT BETWEEN THE DESIGN DOCUMENTS AND/OR JURISDICTIONAL REQUIREMENTS, THE MORE RESTRICTIVE FROM THE STANDPOINT OF SAFETY AND PHYSICAL SECURITY SHALL APPLY.
6. ANY INSTALLATION, FINISH, OR COMPONENT INTENDED TO PROVIDE ENCLOSURE, WEATHER ABILITY OR APPEARANCE QUALITY SHALL BE PRODUCED AS A REPRESENTATIVE SAMPLE PRIOR TO PROCEEDING WITH COMPLETION. WORK PERFORMED WITHOUT WRITTEN APPROVAL OF SUCH SAMPLE BY THE ARCHITECT/ENGINEER SHALL BE DONE AT THE RISK OF THE CONTRACTOR. A MINIMUM OF TWO (2) WORKING DAYS NOTICE SHALL BE GIVEN.
7. ALL WORK SHALL BE INSPECTED BY GOVERNING AGENCIES IN ACCORDANCE WITH THEIR REQUIREMENTS. JURISDICTIONAL APPROVAL SHALL BE SECURED BEFORE PROCEEDING WITH WORK.
8. BUILDING DESIGN IS GENERALLY PREDICATED UPON PROVISIONS OF THE 2009 IBC AND OR 2009 IRC AND AMENDMENTS AS MAY HAVE BEEN LOCALLY ENACTED. ALL REQUIREMENTS OF THE JURISDICTIONAL FIRE SAFETY/PREVENTION DISTRICT SHALL BE ACCOMMODATED BY THIS DESIGN AND ANY CONSEQUENT CONSTRUCTION.

COVER SHEET

REVISIONS:

DATE:

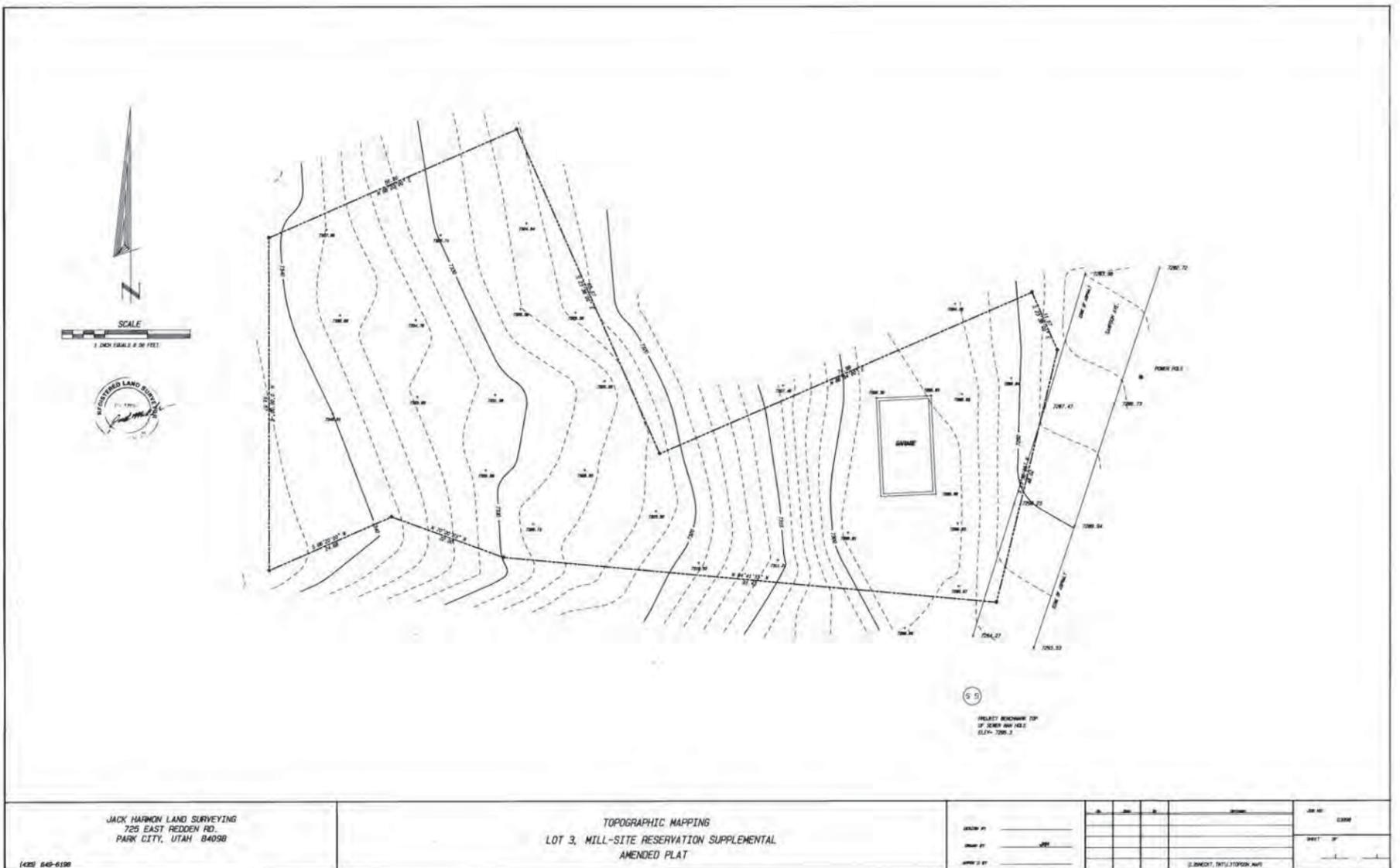
NOVEMBER 19, 2012

PROJECT NUMBER:

1112-02

SHEET NUMBER:

Aa



*Mill-Site Reservation Supplemental Amended Plat  
a Subdivision of Block 78 and 79 of Subdivision No.1 of Mill-Site Reservation  
Lot 3 (30 Sampson Avenue)*



NARRATIVE

1. Survey requested by: Kenneth Jorgensen.
2. Purpose of survey: locate the specified topographic relief.
3. Basis of survey: found property monuments as shown.
4. Date of survey: September 5, 2012.
5. Property monuments found as shown.
6. Located in the Southeast Quarter of Section 16, Township 7 South, Range 4 East, Salt Lake Base & Meridian.
7. See the official plat of the Mill-Site Reservation Supplemental Amended Plat for other possible easements, restrictions or setbacks.
8. The owner of the property should be aware of any items affecting the property that may appear in a title insurance report.
9. The elevations are based on an elevation of 7295.3 feet at the sewer manhole lid, from the previous topographic survey of the property by Jack Harmon Land Surveying.

LEGAL DESCRIPTION

Lot 3, Mill-Site Reservation Supplemental Amended Plat, according to the Official Plat thereof, on file and of record in the Office of the Summit County Recorder.

SURVEYOR'S CERTIFICATE

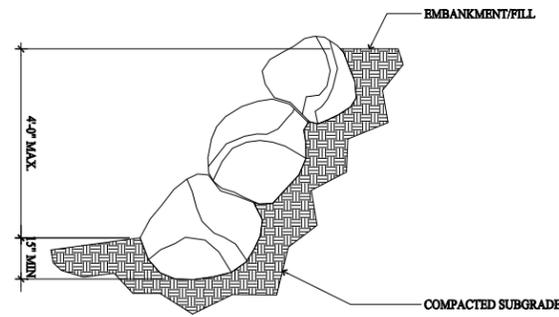
I, J.D. Galley, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 359005, do hereby certify that I have supervised a survey of the herein described property and that this plat is a true representation of said survey.

Sept. 11, 12  
Date



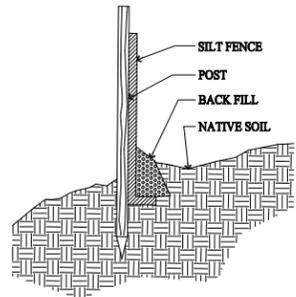
J.D. GALLEY, LMS 359005





- NOTES:**
1. NOMINAL ROCK SIZE SHALL BE AT LEAST ONE THIRD THE HEIGHT OF THE EMBANKMENT (FIRST TWO COURSES).
  2. IN SANDY OR SILTY SOILS A FILTER FABRIC SHALL BE PLACED BEHIND THE ROCK FACED SLOPE.
  3. SLOPE MAY BE INCREASED TO 1/2 (H) TO 1 (V) IF HEIGHT OF EMBANKMENT IS LESS THAN 4 FEET.
  4. ROCK MUST BE ANGULAR AND FITTED TOGETHER TO INTERACT WITH ADJACENT ROCKS.
  5. A MINIMUM SETBACK OF FOUR FEET FROM BUILDINGS OR STRUCTURES SHALL BE MAINTAINED ABOVE OR BELOW THE ROCK FACED SLOPE.

**2 BOULDER RETAINING WALL**  
A0.1 NO SCALE



1. SANDBAGS WILL BE PLACED AT DISCHARGE LOCATIONS TO CONTAIN AND DIVERT STORM WATER THROUGH STRAW BALES.
2. AN EARTHEN BERM 6" HIGH WILL BE CONSTRUCTED TO CONTAIN THE STORM WATER AND DIVERT IT TO DISCHARGE AREAS.
3. STORM WATER WILL BE DISCHARGED INTO AN EXISTING DRAINAGE SYSTEM. EXISTING LINES SHALL BE INSPECTED PRIOR TO CERTIFICATE OF OCCUPANCY AND CLEANED IF NECESSARY.
4. THE STORM WATER PREVENTION PLAN SHALL CONFORM TO ALL STATE DIVISION OF ENVIRONMENTAL PROTECTION REGULATIONS.

**1 SILT FENCE SECTION**  
A0.1 NO SCALE

LEGEND	
(Symbol)	SEWER MANHOLE
(Symbol)	WATER METER
(Symbol)	UTILITY POLE
(Symbol)	OVERHEAD UTILITY LINE
(Symbol)	OVERHEAD POWER LINE
(Symbol)	SURFACE DRAINAGE FLOW

**SITE PLAN NOTES:**

1. ALL SURFACE WATER SHALL DRAIN AWAY FROM THE HOUSE AT ALL POINTS. DIRECT THE DRAINAGE WATER TO THE STREET OR AN APPROVED DRAINAGE COURSE BUT NOT ONTO THE NEIGHBORING PROPERTIES. THE GRADE SHALL FALL A MINIMUM OF 6" WITHIN THE FIRST 10 FEET. -IRC R401.3

**STABILIZATION CONSTRUCTION ENTRANCE**

FOR A MINIMUM OF 50' FROM ROADWAY, A FILTER FABRIC SHALL BE INSTALLED OVER A COMPACTED SUBGRADE. A 6" LAYER OF 1"-2" AGGREGATE SHALL BE PLACED OVER THIS MEMBRANE. DAILY INSPECTION FOR SEDIMENT BUILD UP AND/OR LOSS OF GRAVEL WILL BE ENFORCED, AND REMEDIED AT ONCE.

**GRADING NOTES**

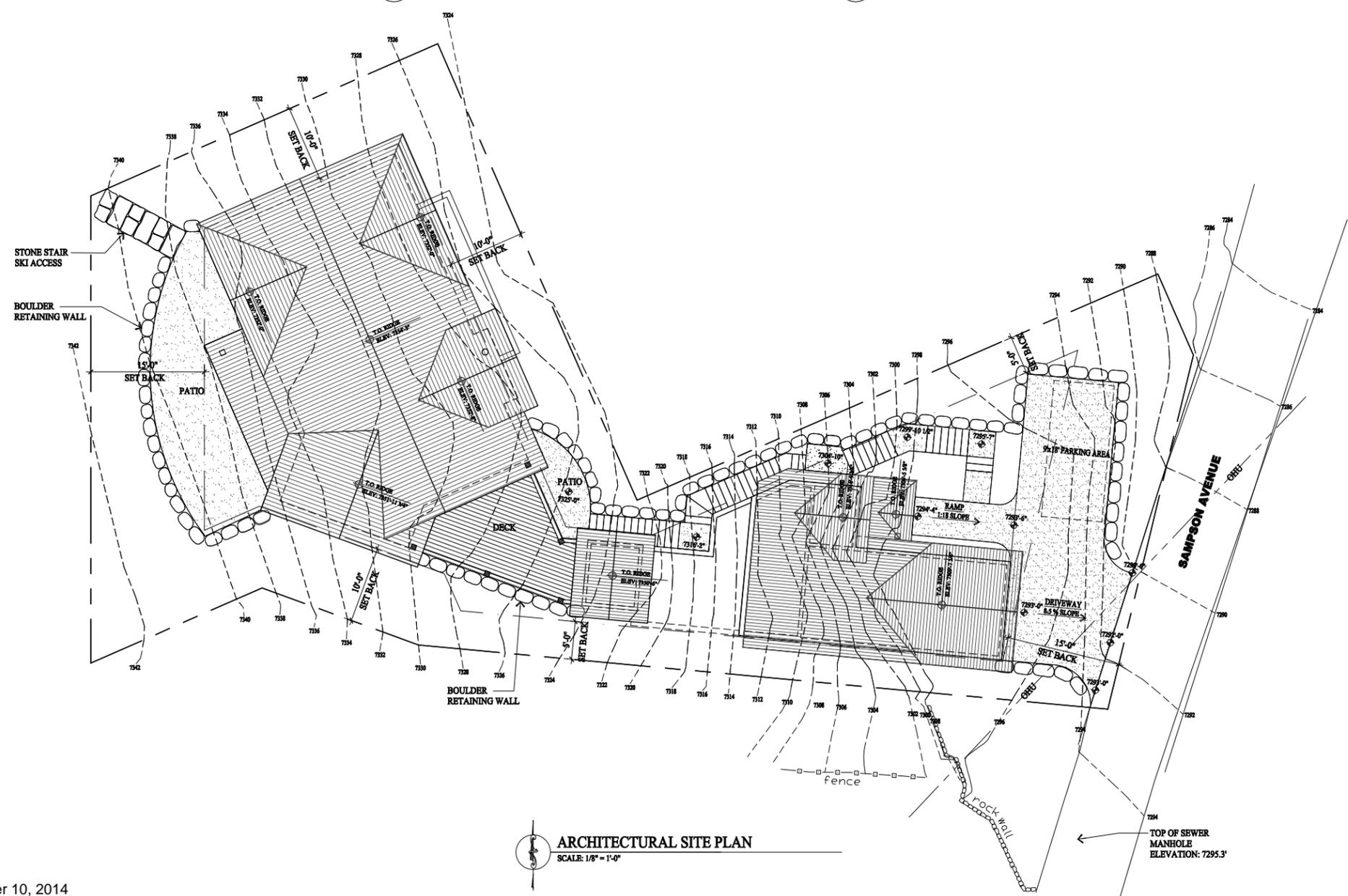
1. DRAINAGE TO COMPLY WITH IRC CHAPTER 4
2. MAXIMUM ALTERED SLOPES AT 2:1
3. MINIMUM SLOPE FOR DRAINAGE = 2%
4. DRAIN AWAY FROM BUILDING
5. CONTAIN DRAINAGE ON PROPERTY
6. BOULDER RETAINING WALLS NOT TO EXCEED 4'-0" EXPOSED HEIGHT

**UTILITY NOTES**

1. ALL UTILITY LINES TO BE UNDERGROUND.
2. ABOVE GRADE UTILITY BOX TO BE IN SCREENED LOCATION.

**SNOW REMOVAL**

SNOW PLOWED FROM DRIVE SHALL NOT BE PUSHED ONTO THE STREET.



**ARCHITECTURAL SITE PLAN**  
SCALE: 1/8" = 1'-0"

**Jonathan DeGray**  
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**JORGENSEN RESIDENCE**  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPSON AVENUE, PARK CITY, UTAH 84060

**ARCHITECTURAL SITE PLAN**

DATE: NOVEMBER 19, 2012  
PROJECT NUMBER: 1112-02  
SUBSET NUMBER: A0.1

PLANT SCHEDULE						
TREES AND SHRUBS						
SYMBOL	KEY #	QUANTITY	SCIENTIFIC NAME	COMMON NAME	SIZE	SPACING
CONIFEROUS TREES						
[Symbol]	A	12	ABIES CONCOLOR	WHITE FIR	14-18"	12' O.C.
			PICRA FUNGENS	COLORADO BLUE SPRUCE	14-18"	15' O.C.
			PINUS MUGO MUGUS	DWARF MUGO PINE	5 GAL.	3' O.C.
DECIDUOUS TREES						
[Symbol]	B	7	ACER GLABRUM	ROCKY MTN. MAPLE	3" DIA.	3-8' O.C.
		5	ALNUS TRINUPOLIA	THINLEAF ALDER	3" DIA.	6-8' O.C.
SMALL FLOWERING & NATIVE TREES & SHRUBS						
[Symbol]	D	5	ACER GRANDIDENTATUM	BIGTOOTH MAPLE	3" DIA.	8-10' O.C.
		13	QUERCUS GAMBELLI	GAMBEL OAK	3" DIA.	6-8' O.C.
SHRUBS						
[Symbol]	E	27	ARTEMESIA TRIDENTATA VASEYANA	MOUNTAIN BIG SAGE	5 GAL.	SPACING AS NOTED ON PLAN
		28	CORNUS SERICEA "BAILEY"	RED TWIG DOGWOOD	5 GAL.	SPACING AS NOTED ON PLAN
		14	JUNIPERUS OXYSPERMA	UTAH JUNIPER	5 GAL.	SPACING AS NOTED ON PLAN
GROUND COVER						
[Symbol]	J		PACHISTIMA CANBYI	DWARF MTRN. LOVER	4" POTS	12" O.C.
			PACHISTIMA MYRSINITES	MOUNTAIN LOVER	4" POTS	12" O.C.

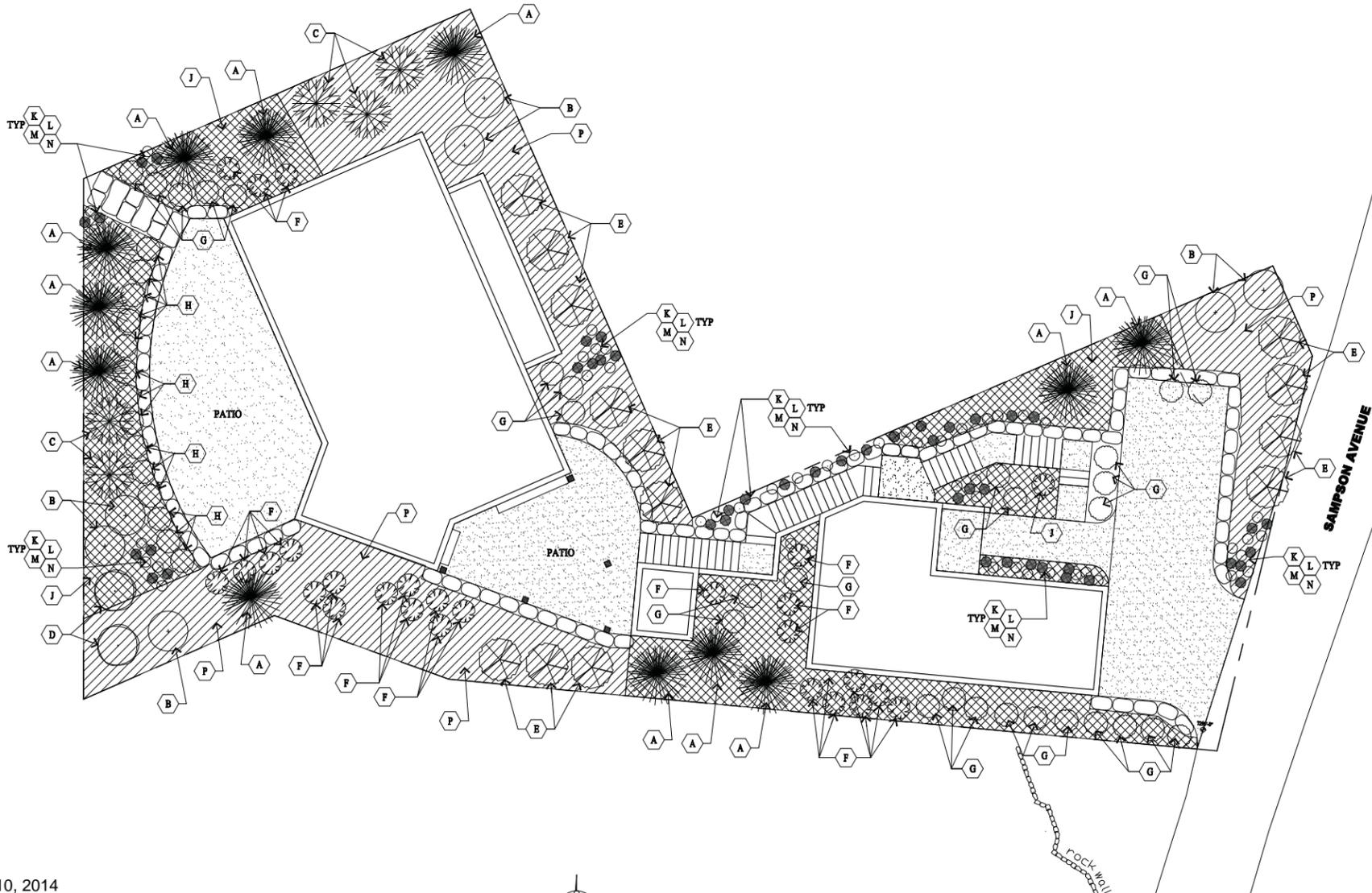
PERENNIAL PLANTING & HYDROSEEDING PALETTE						
SYMBOL	KEY #	QUANTITY	SCIENTIFIC NAME	COMMON NAME	SIZE	SPACING
[Symbol]			CAMPANULA ROTUNDIFOLIA	BELBELL	1 GAL.	12-18" O.C.
			AQUILEGIA CARRULEA	COLUMBINE	1 GAL.	12-18" O.C.
			BRIGONIA FLACILARIS	TRAILING DAISY	1 GAL.	12-18" O.C.
[Symbol]	K	20	GALLARDIA ARISTATA	BACHELOR BUTTON	1 GAL.	12-18" O.C.
			GALLARDIA GRANDIFLORA	BURGUNDY BLANKET FLOWER	1 GAL.	12-18" O.C.
[Symbol]	L	20	GALLARDIA GRANDIFLORA 'BOBLIN'	DWARF BLANKET FLOWER	1 GAL.	12-18" O.C.
			LINUM LEWISII	BLUE FLAX	1 GAL.	12-18" O.C.
[Symbol]	M	20	LINUM LEWISII	BLUE FLAX	1 GAL.	12-18" O.C.
			LINUM FLAVUM COMPACTA	YELLOW FLAX	1 GAL.	12-18" O.C.
[Symbol]	O		DROUGHT TOLERANT FESCUE	SHEEP FESCUE	1 LB/1500 SF	HYDROSEED +2000 SQFT AREA
[Symbol]	P		NATIVE GRASS SEED MIX (REV. 03.10.12)		1 LB/1500 SF	HYDROSEED SEE SEED MIX BELOW

The seed mix below shall be utilized in areas specified for native grasses. This mixture shall be applied at a sufficient rate so that germination and subsequent coverage reaches 80% in a representative 10'x10' area. If coverage does not reach 80% reseeded must occur. Apply at a rate of 80 lbs./acre on the following percentages:

- \* NATIVE GRASS SEED MIX
  - 20% Crested Wheatgrass
  - 10% Stolonchik Wheatgrass
  - 20% Pseudotsuga
  - 15% Perennial Ryegrass
  - 15% Mountain Bromegrass
  - 10% Indian Ryegrass
  - 10% Alpine Brome
- \* In addition, add 10 lbs./acre each of Limn. lewisii and Pentstemon. Estimate with native grass seed mixture.

PLANTING NOTES

- CONTRACTOR TO VERIFY LOCATION OF ALL UTILITIES PRIOR TO INITIATION OF EXCAVATION OR PLANTING OPERATIONS. ANY DAMAGE TO EXISTING UTILITIES ON SITE OR ADJACENT PROPERTY SHALL BE CONTRACTORS RESPONSIBILITY.
- ALL PLANT MATERIAL SHALL CONFORM TO CURRENT AMERICAN ASSOCIATION OF NURSERYMANS STANDARD SPECIFICATIONS.
- ALL PLANT MATERIAL SHALL BE INSTALLED AS PER DRAWINGS, DETAILS, AND SPECIFICATIONS.
- CONTRACTOR SHALL VERIFY ALL QUANTITIES. IN CASE OF A DISCREPANCY, THE ILLUSTRATED LOCATIONS SHALL DICTATE COUNT.
- CONTRACTOR SHALL COORDINATE ALL PLANTING WITH IRRIGATION CONTRACTOR, AS NEEDED.
- IN THE EVENT OF A DISCREPANCY NOTIFY THE ARCHITECT OR OWNER IMMEDIATELY.
- NO SUBSTITUTIONS SHALL BE ALLOWED WITHOUT WRITTEN PERMISSION OF THE ARCHITECT OR OWNER.
- SHRUB BEDS SHALL RECEIVE 6" OF TOPSOIL.
- ALL SHRUB BEDS SHALL HAVE 3" OF DECOMPOSED BARK MULCH INSTALLED.
- SHRUB BED EDGING SHALL BE PRESSURE TREATED WOOD OR "TREX" EDGING. IT SHALL SEPARATE ALL SHRUB BEDS/ NATIVE GRASS LOCATIONS.
- ALL PLANTS AND ALL PLANT STAKES SHALL BE SET PLUMB.
- ALL ROOT WRAPPING MATERIAL MADE OF SYNTHETICS OR PLASTICS SHALL BE REMOVED AT TIME OF PLANTING AND PROPERLY DISCARDED.
- NO BARE ROOT STOCK SHALL BE USED.
- FOR PLANTING BACK FILL SOIL MIX, SEE SPECIFICATIONS.



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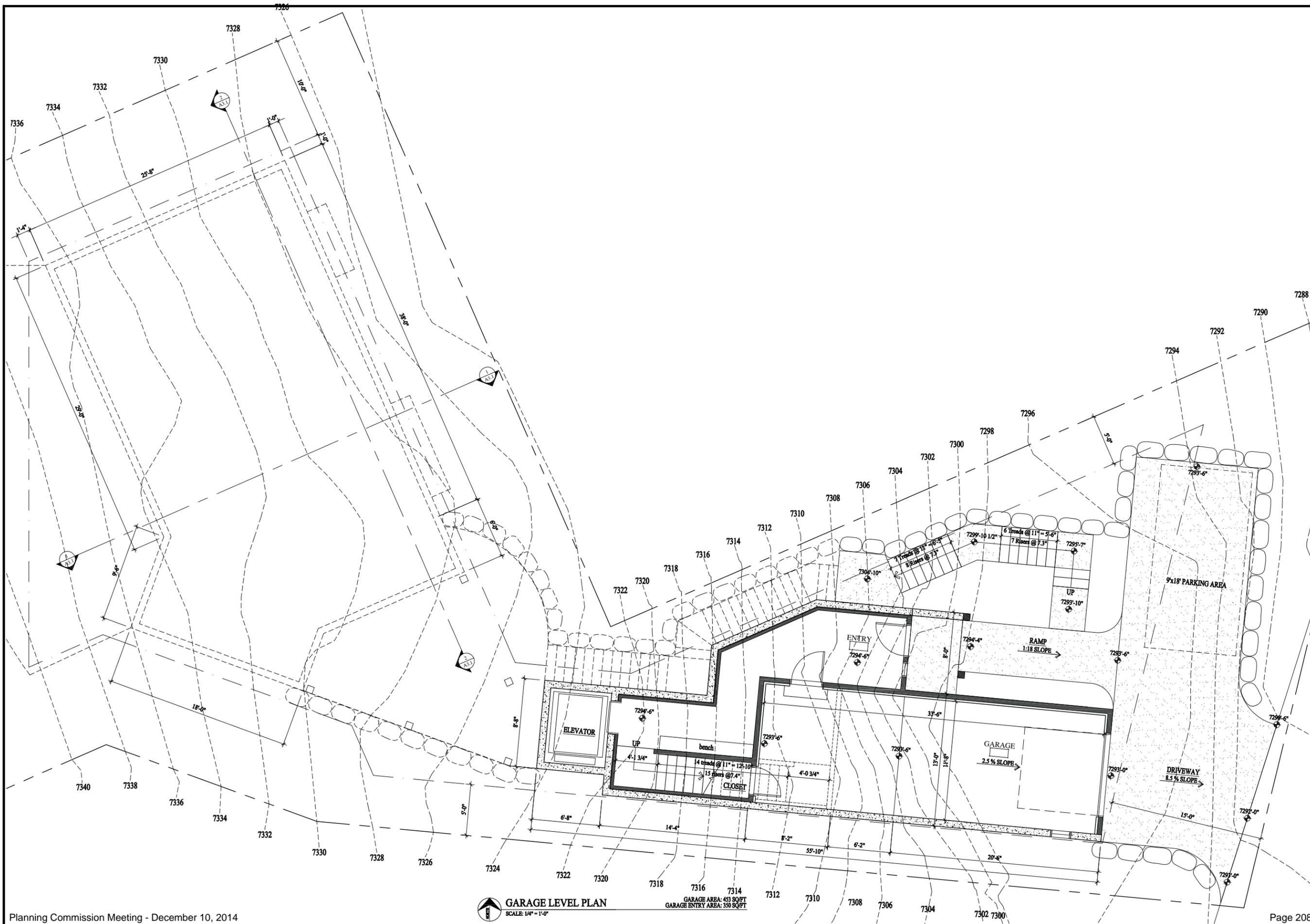
LANDSCAPE PLAN

DATE: NOVEMBER 19, 2012

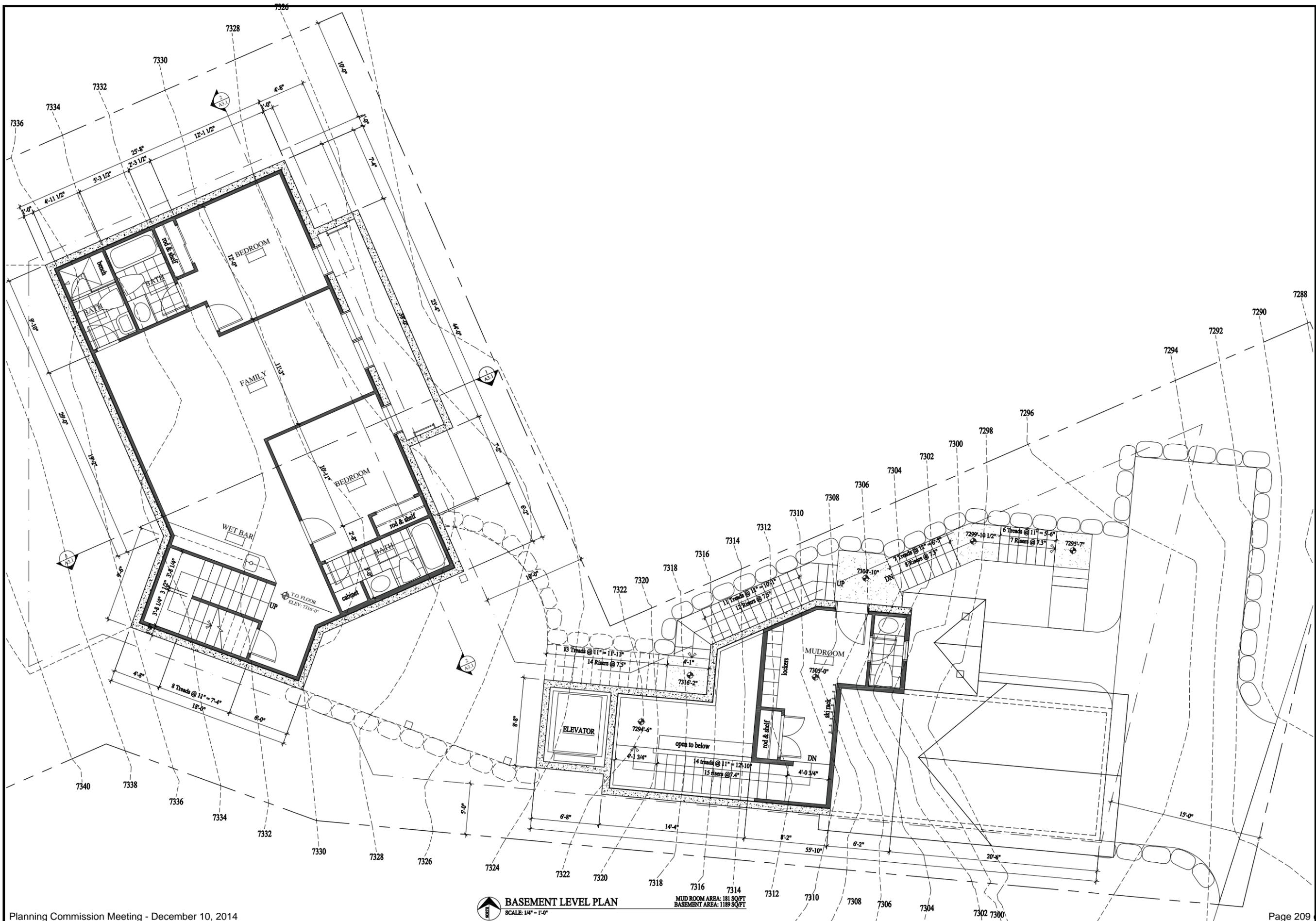
PROJECT NUMBER: 1112-02

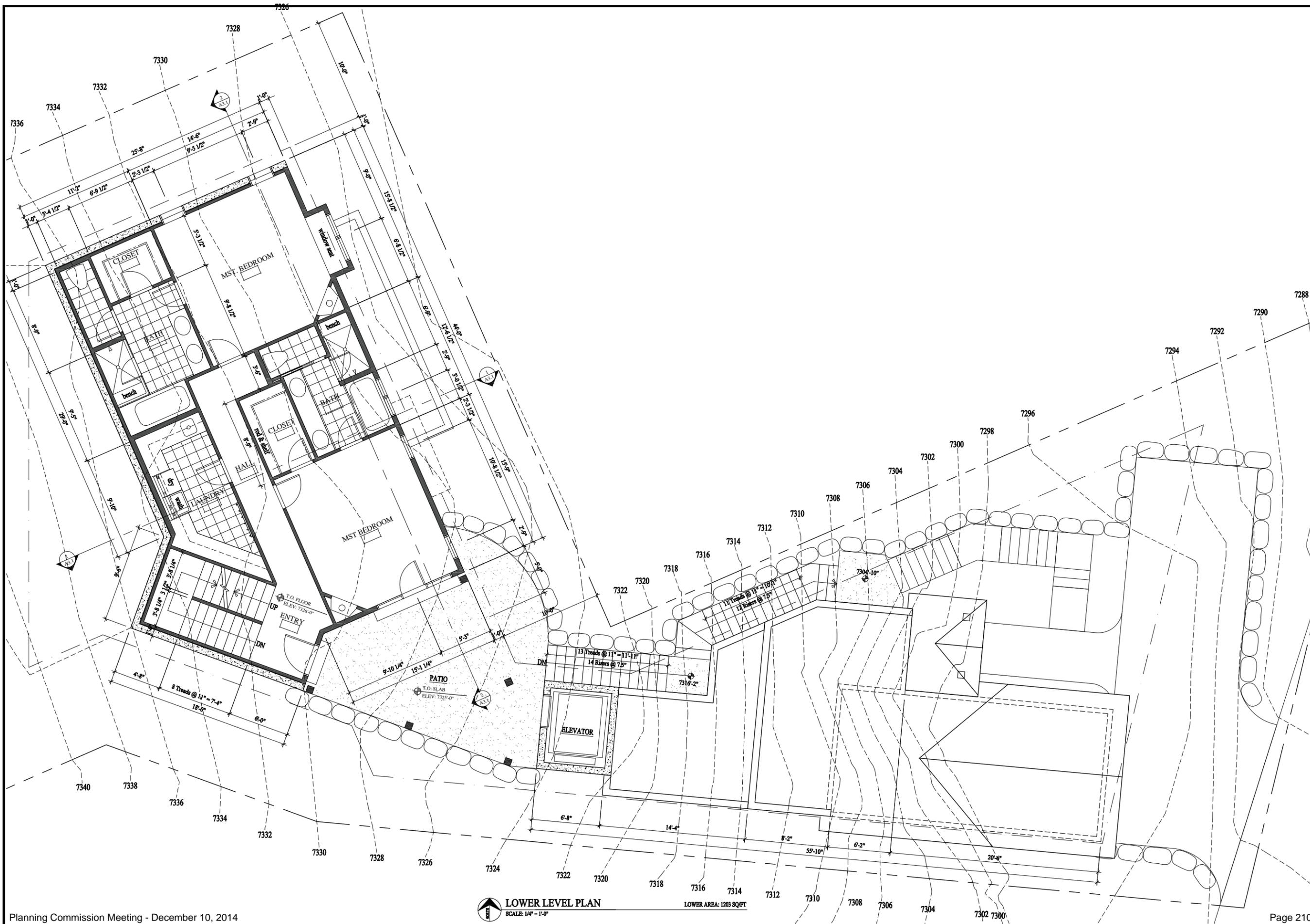
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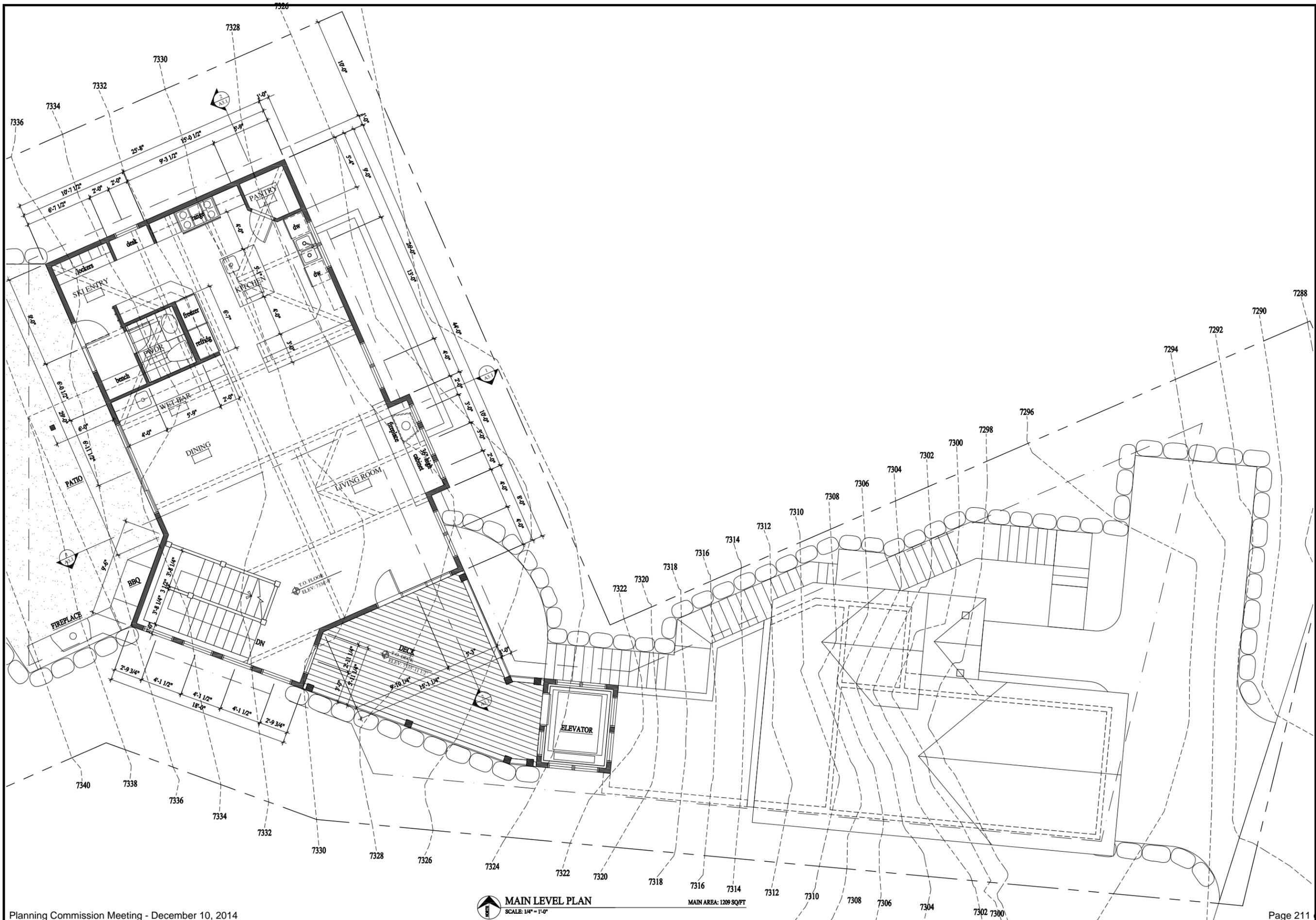
**A0.2**



**GARAGE LEVEL PLAN**  
 SCALE: 1/4" = 1'-0"  
 GARAGE AREA: 433 SQ/FT  
 GARAGE ENTRY AREA: 350 SQ/FT







**MAIN LEVEL PLAN**  
 SCALE: 1/4" = 1'-0"  
 MAIN AREA: 1209 SQ/FT

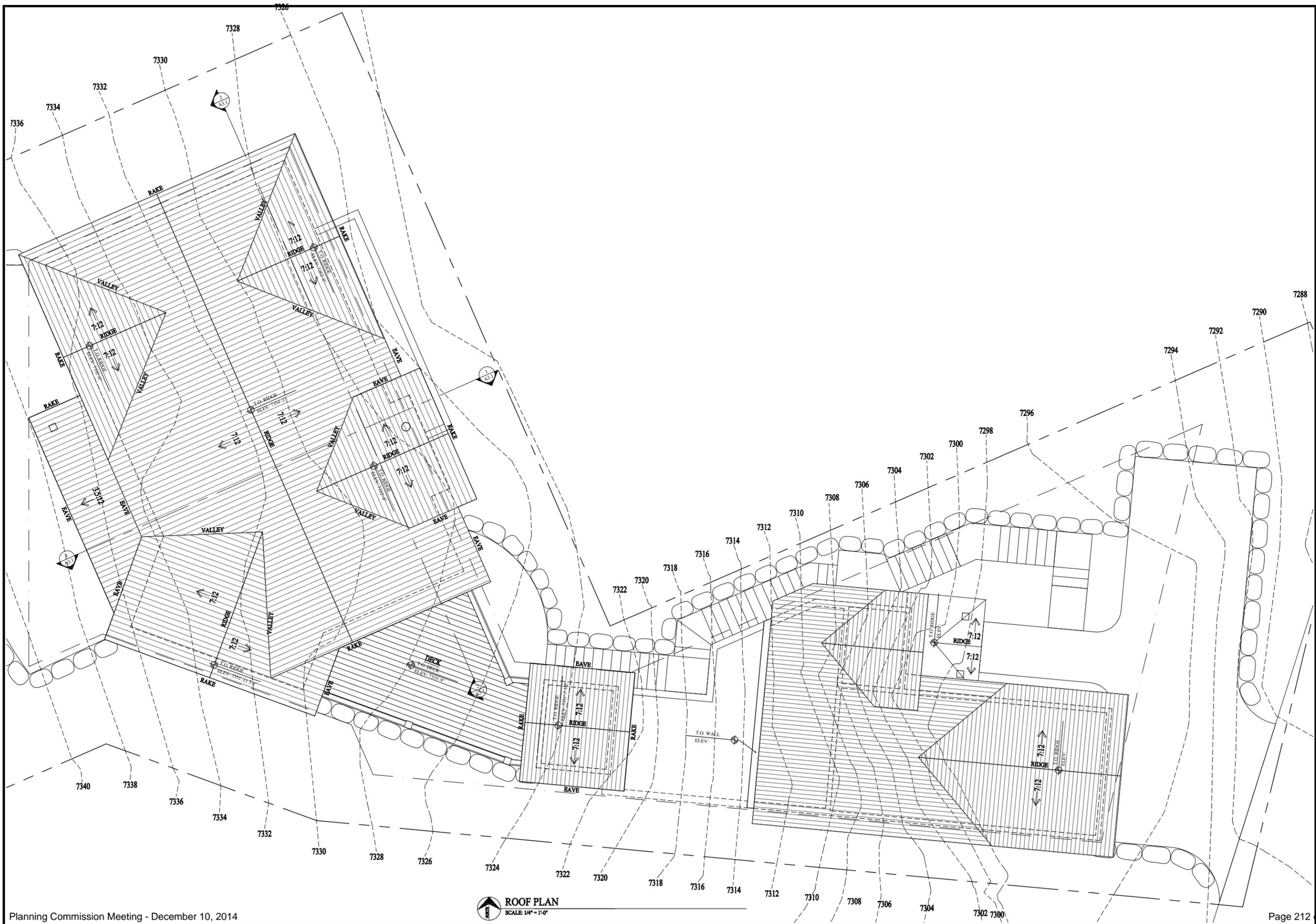
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**MAIN LEVEL PLAN**

REVISIONS:  
 DATE: **NOVEMBER 19, 2012**  
 PROJECT NUMBER: **1112-02**

495 **A1.4**



**ROOF PLAN**  
SCALE: 1/4" = 1'-0"

**Jonathan DeGray**  
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**ROOF PLAN**

DATE:  
NOVEMBER 19, 2012

PROJECT NUMBER:  
1112-02

**A1.5**



1 STREETScape ELEVATION  
 A2.0 SCALE: 1/4" = 1'-0"

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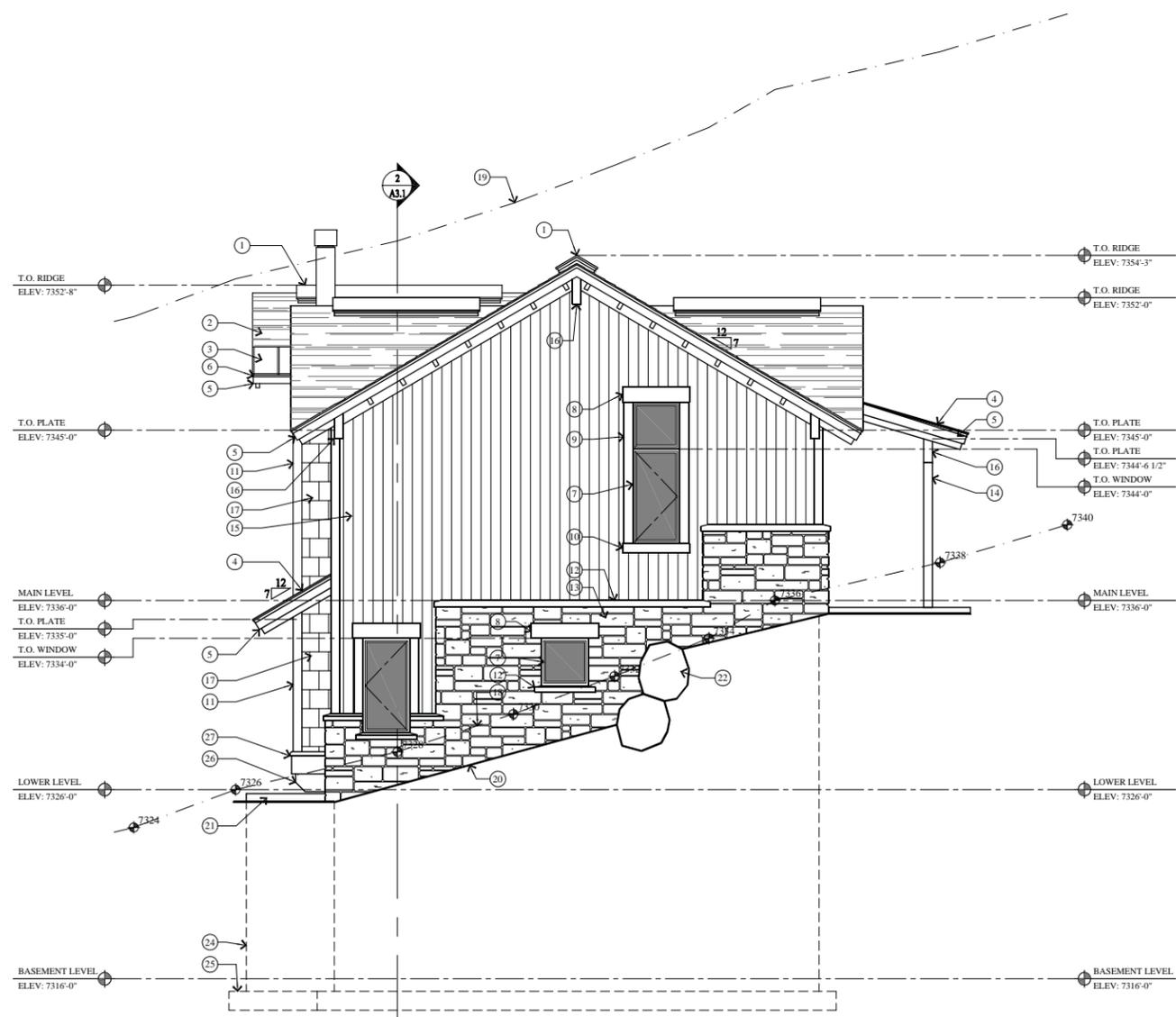
**STREETScape ELEVATION**

DATE: NOVEMBER 19, 2012  
 PROJECT NUMBER: 1112-02  
 SHEET NUMBER: A2.0

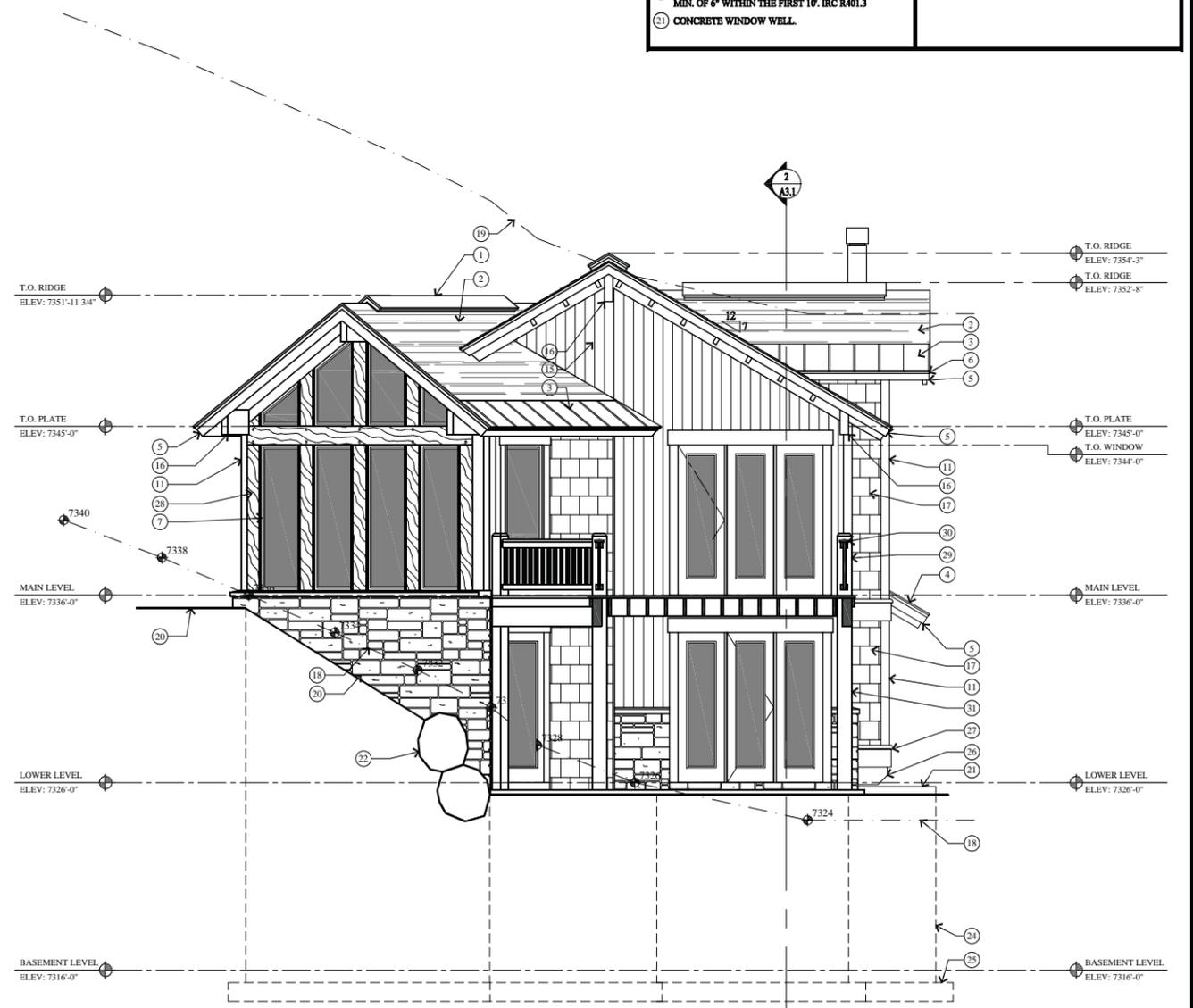
A2.0

### KEY NOTES

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>1 STANDING SEAM METAL ROOF ON BUILT-UP RIDGE VENT.</li> <li>2 ARCHITECTURAL GRADE COMPOSITION SHINGLE 50 YEAR PRESIDENTIAL TL (3558 PER SQUARE, MIN.) ON ICE AND WATER MEMBRANE. HOLD MEMBRANE 12" DOWN FROM RIDGE.</li> <li>3 STANDING SEAM METAL ROOF TO EXTEND 3'-0" UP THE EAVE. - TYPICAL. METAL ROOF TO BE ICC-ES APPROVED.</li> <li>4 STANDING SEAM METAL ROOF - TYPICAL. METAL ROOF TO BE ICC-ES APPROVED.</li> <li>5 2x6 FASCIA ON 3x10 RAFTER OUTLOOKS.</li> <li>6 1 1/2" x 3" CONTINUOUS METAL DRIP EDGE.</li> <li>7 ALUMINUM CLAD WOOD WINDOWS AND DOORS W/ 1" INSULATED GLASS - SEE SCHEDULE.</li> <li>8 2x10 WINDOW/DOOR HEAD - STAINED W/ FLASHING.</li> <li>9 2x6 WINDOW/DOOR JAMB - STAINED.</li> <li>10 2x6 WINDOW SILL - STAINED.</li> <li>11 2x6 CEDAR OUTSIDE CORNER BOARD, 2x2 CEDAR INSIDE CORNER BOARD - STAINED.</li> <li>12 CUT STONE CAP/SILL.</li> <li>13 5" STONE VENEER - SEE SHEET S1.1 GENERAL STRUCTURAL NOTE FOR INSTALLATION.</li> <li>14 6x6 TIMBER COLUMN - STAINED.</li> <li>15 1x VERTICAL SIDING ON TYVEK HOMEWRAP ON 1/2" EXT. SHEATHING.</li> <li>16 ARCHITECTURAL GRADE ROUGH SAWN BEAM - SEE STRUCTURAL FOR SIZE.</li> <li>17 METAL INTERLOCKING SIDING ON TYVEK HOMEWRAP ON 1/2" EXT. SHEATHING.</li> <li>18 LINE OF EXISTING GRADE.</li> <li>19 LINE 27'-0" HEIGHT ABOVE EXISTING GRADE.</li> <li>20 FINISH GRADE TO SLOPE AWAY FROM HOUSE A MIN. OF 6" WITHIN THE FIRST 10'. IRC R401.3</li> <li>21 CONCRETE WINDOW WELL.</li> </ul> | <ul style="list-style-type: none"> <li>22 BOULDER RETAINING WALL, NOT TO EXCEED 4'-0" IN HEIGHT. - SEE DETAIL 2/A0.1</li> <li>23 ROOF TO WALL SURFACE; EXTEND BITUTHANE MEMBRANE OVER ROOF DECK AND UP WALL SURFACE 24".</li> <li>24 FOUNDATION - SEE STRUCTURAL FOR SIZE AND REINFORCING.</li> <li>25 FOOTING - SEE STRUCTURAL FOR SIZE AND REINFORCING.</li> <li>26 6x12 TIMBER CORBELS - STAINED.</li> <li>27 REVELED 3x4 ON 3x12 CEDAR TRIM BOARD - STAINED.</li> <li>28 ROUGH SAWN TIMBER - STAINED.</li> <li>29 8x8 NEWL POST - STAINED.</li> <li>30 36" HIGH RAILING: 4x6 SHAPED TOP RAIL W/ 2x2 BALLAST @ 5 1/2" O.C. W/ 3x6 SHAPED BOTTOM RAIL.</li> <li>31 10x10 TIMBER COLUMN - STAINED.</li> </ul> |
|--|--|



1 NORTH ELEVATION  
SCALE: 1/4" = 1'-0"



2 SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"

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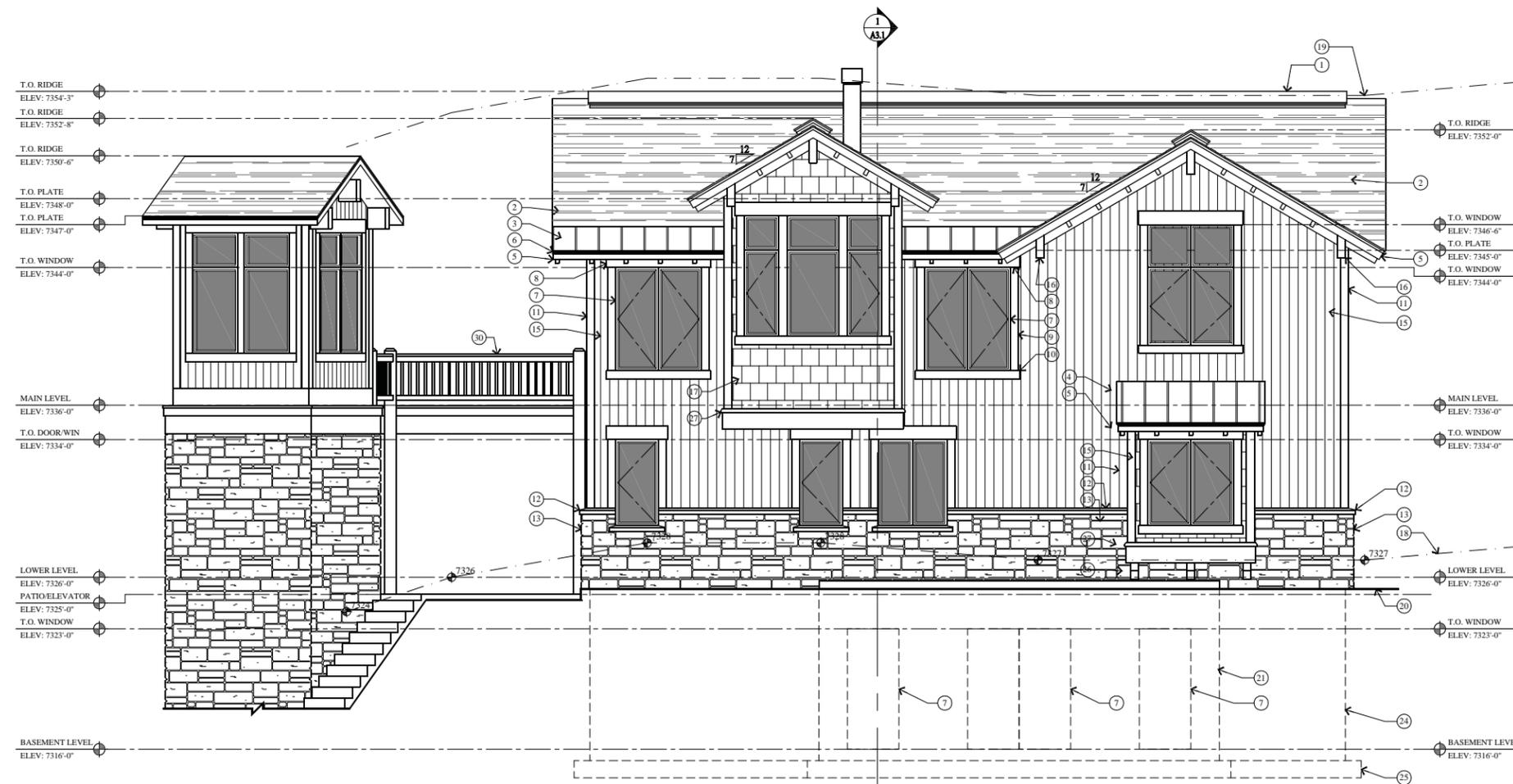
**NORTH & SOUTH ELEVATIONS**

REVISIONS:  
DATE: **NOVEMBER 19, 2012**  
PROJECT NUMBER: **1112-02**  
SHEET NUMBER:

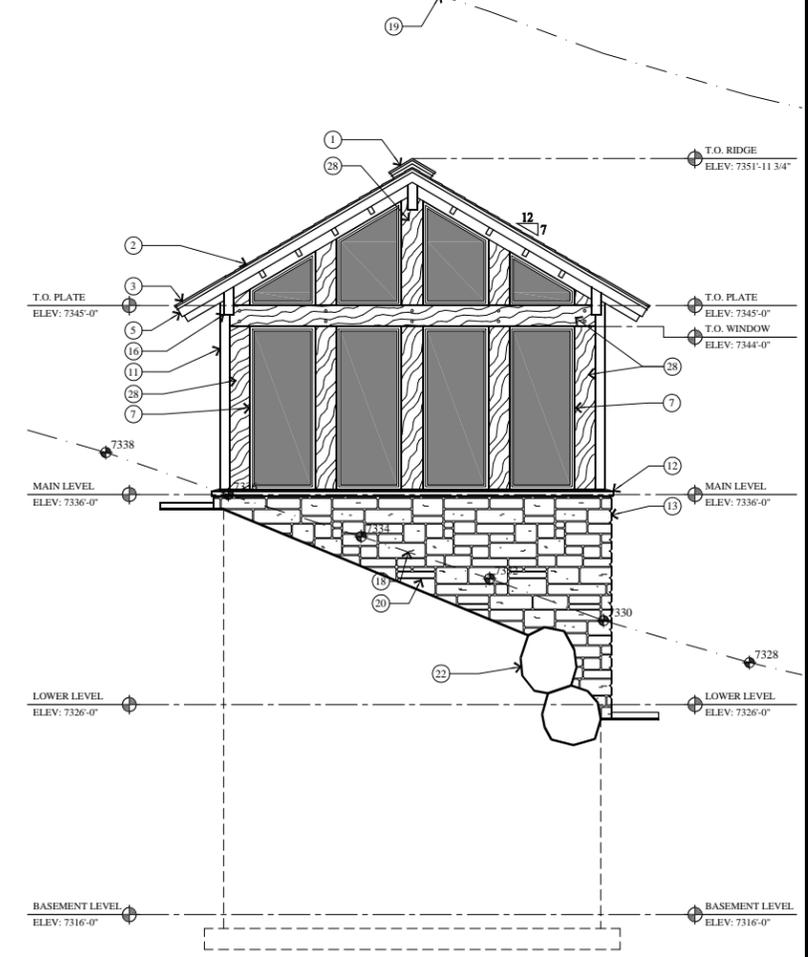
**A2.1**

### KEY NOTES

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>1 STANDING SEAM METAL ROOF ON BUILT-UP RIDGE VENT.</li> <li>2 ARCHITECTURAL GRADE COMPOSITION SHINGLE 50 YEAR PRESIDENTIAL TL (3558 PER SQUARE, MIN.) ON ICE AND WATER MEMBRANE. HOLD MEMBRANE 12" DOWN FROM RIDGE.</li> <li>3 STANDING SEAM METAL ROOF TO EXTEND 3'-0" UP THE EAVE. - TYPICAL. METAL ROOF TO BE ICC-ES APPROVED.</li> <li>4 STANDING SEAM METAL ROOF - TYPICAL. METAL ROOF TO BE ICC-ES APPROVED.</li> <li>5 2x6 FASCIA ON 3x10 RAFTER OUTLOOKS.</li> <li>6 1 1/2" x 3" CONTINUOUS METAL DRIP EDGE.</li> <li>7 ALUMINUM CLAD WOOD WINDOWS AND DOORS W/ 1" INSULATED GLASS - SEE SCHEDULE.</li> <li>8 2x10 WINDOW/DOOR HEAD - STAINED W/ FLASHING.</li> <li>9 2x6 WINDOW/DOOR JAMB - STAINED.</li> <li>10 2x6 WINDOW SILL - STAINED.</li> <li>11 2x6 CEDAR OUTSIDE CORNER BOARD, 2x2 CEDAR INSIDE CORNER BOARD - STAINED</li> <li>12 CUT STONE CAP/SILL.</li> <li>13 5" STONE VENEER - SEE SHEET S1.1 GENERAL STRUCTURAL NOTE FOR INSTALLATION.</li> <li>14 6x6 TIMBER COLUMN - STAINED.</li> <li>15 1x VERTICAL SIDING ON TYVEK HOMEWRAP ON 1/2" EXT. SHEATHING.</li> <li>16 ARCHITECTURAL GRADE ROUGH SAWN BEAM - SEE STRUCTURAL FOR SIZE.</li> <li>17 METAL INTERLOCKING SIDING ON TYVEK HOMEWRAP ON 1/2" EXT. SHEATHING.</li> <li>18 LINE OF EXISTING GRADE.</li> <li>19 LINE 27'-0" HEIGHT ABOVE EXISTING GRADE.</li> <li>20 FINISH GRADE TO SLOPE AWAY FROM HOUSE A MIN. OF 6" WITHIN THE FIRST 10'. IRC R401.3</li> <li>21 CONCRETE WINDOW WELL.</li> </ul> | <ul style="list-style-type: none"> <li>22 BOULDER RETAINING WALL, NOT TO EXCEED 4'-0" IN HEIGHT. - SEE DETAIL 2/A0.1</li> <li>23 ROOF TO WALL SURFACE; EXTEND BITUTHANE MEMBRANE OVER ROOF DECK AND UP WALL SURFACE 24".</li> <li>24 FOUNDATION - SEE STRUCTURAL FOR SIZE AND REINFORCING.</li> <li>25 FOOTING - SEE STRUCTURAL FOR SIZE AND REINFORCING</li> <li>26 6x12 TIMBER CORBELS - STAINED.</li> <li>27 REVELED 3x4 ON 3x12 CEDAR TRIM BOARD - STAINED.</li> <li>28 ROUGH SAWN TIMBER - STAINED.</li> <li>29 8x8 NEWL POST - STAINED.</li> <li>30 36" HIGH RAILING: 4x6 SHAPED TOP RAIL W/ 2x2 BALLAST @ 5 1/2" O.C. W/ 3x6 SHAPED BOTTOM RAIL.</li> <li>31 10x10 TIMBER COLUMN - STAINED.</li> </ul> |
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1 EAST ELEVATION  
SCALE: 1/4" = 1'-0"



2 SOUTHWEST ELEVATION  
SCALE: 1/4" = 1'-0"

**Jonathan DeGray**  
A r c h i t e c t

P.O. Box 1674, 614 Main Street, Suite 302, Park City, Utah 86060  
Tel. 435-649-7263, E-mail: deggrayarch@qwestoffice.net

**JORGENSEN RESIDENCE**  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPSON AVENUE, PARK CITY, UTAH 84060

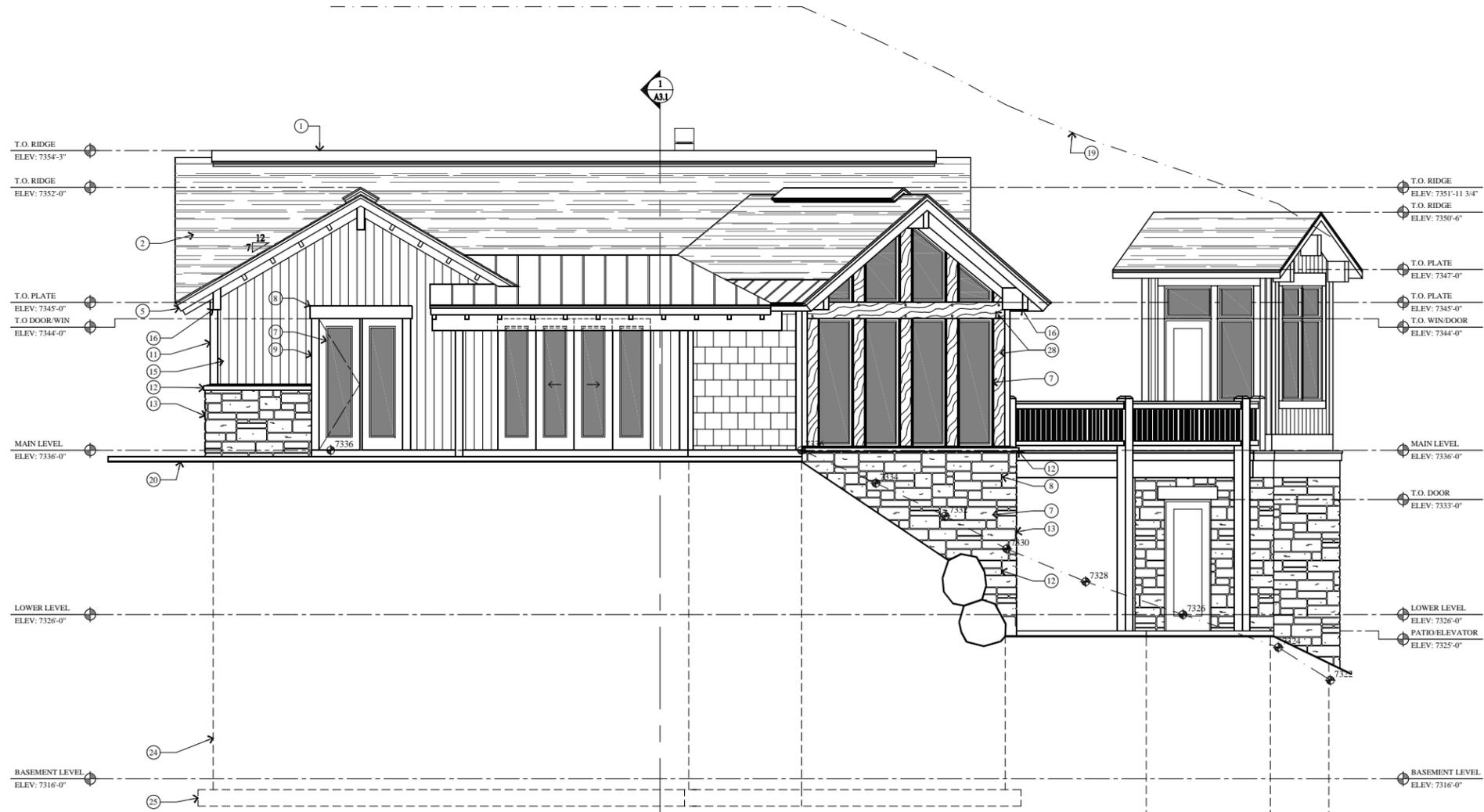
**EAST AND SOUTHWEST  
ELEVATIONS**

DATE: **NOVEMBER 19, 2012**  
PROJECT NUMBER: **1112-02**

REVISIONS:  
A2.2

### KEY NOTES

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| <ul style="list-style-type: none"> <li>1 STANDING SEAM METAL ROOF ON BUILT-UP RIDGE VENT.</li> <li>2 ARCHITECTURAL GRADE COMPOSITION SHINGLE 50 YEAR PRESIDENTIAL TL (3558 PER SQUARE, MIN.) ON ICE AND WATER MEMBRANE. HOLD MEMBRANE 12" DOWN FROM RIDGE.</li> <li>3 STANDING SEAM METAL ROOF TO EXTEND 3'-0" UP THE EAVE. - TYPICAL. METAL ROOF TO BE ICC-ES APPROVED.</li> <li>4 STANDING SEAM METAL ROOF - TYPICAL. METAL ROOF TO BE ICC-ES APPROVED.</li> <li>5 2x6 FASCIA ON 3x10 RAFTER OUTLOOKS.</li> <li>6 1 1/2" x 3" CONTINUOUS METAL DRIP EDGE.</li> <li>7 ALUMINUM CLAD WOOD WINDOWS AND DOORS W/ 1" INSULATED GLASS - SEE SCHEDULE.</li> <li>8 2x10 WINDOW/DOOR HEAD - STAINED W/ FLASHING.</li> <li>9 2x6 WINDOW/DOOR JAMB - STAINED.</li> <li>10 2x6 WINDOW SILL - STAINED.</li> <li>11 2x6 CEDAR OUTSIDE CORNER BOARD, 2x2 CEDAR INSIDE CORNER BOARD - STAINED.</li> <li>12 CUT STONE CAP/SILL.</li> <li>13 5" STONE VENEER - SEE SHEET S1.1 GENERAL STRUCTURAL NOTE FOR INSTALLATION.</li> <li>14 6x6 TIMBER COLUMN - STAINED.</li> <li>15 1x VERTICAL SIDING ON TYVEK HOMEWRAP ON 1/2" EXT. SHEATHING.</li> <li>16 ARCHITECTURAL GRADE ROUGH SAWN BEAM - SEE STRUCTURAL FOR SIZE.</li> <li>17 METAL INTERLOCKING SIDING ON TYVEK HOMEWRAP ON 1/2" EXT. SHEATHING.</li> <li>18 LINE OF EXISTING GRADE.</li> <li>19 LINE 27'-0" HEIGHT ABOVE EXISTING GRADE.</li> <li>20 FINISH GRADE TO SLOPE AWAY FROM HOUSE A MIN. OF 6" WITHIN THE FIRST 10'. IRC R401.3</li> <li>21 CONCRETE WINDOW WELL.</li> </ul> | <ul style="list-style-type: none"> <li>22 BOULDER RETAINING WALL, NOT TO EXCEED 4'-0" IN HEIGHT. - SEE DETAIL 2/A0.1</li> <li>23 ROOF TO WALL SURFACE; EXTEND BITUTHANE MEMBRANE OVER ROOF DECK AND UP WALL SURFACE 24".</li> <li>24 FOUNDATION - SEE STRUCTURAL FOR SIZE AND REINFORCING.</li> <li>25 FOOTING - SEE STRUCTURAL FOR SIZE AND REINFORCING.</li> <li>26 6x12 TIMBER CORBELS - STAINED.</li> <li>27 BEVELED 3x4 ON 3x12 CEDAR TRIM BOARD - STAINED.</li> <li>28 ROUGH SAWN TIMBER - STAINED.</li> <li>29 8x8 NEWL POST - STAINED.</li> <li>30 36" HIGH RAILING: 4x6 SHAPED TOP RAIL W/ 2x2 BALLAST @ 5 1/2" O.C. W/ 3x6 SHAPED BOTTOM RAIL.</li> <li>31 10x10 TIMBER COLUMN - STAINED.</li> <li>32 CONCRETE RETAINING WALL.</li> <li>33 GREEN ROOF.</li> </ul> |
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1 WEST ELEVATION  
SCALE: 1/4" = 1'-0"

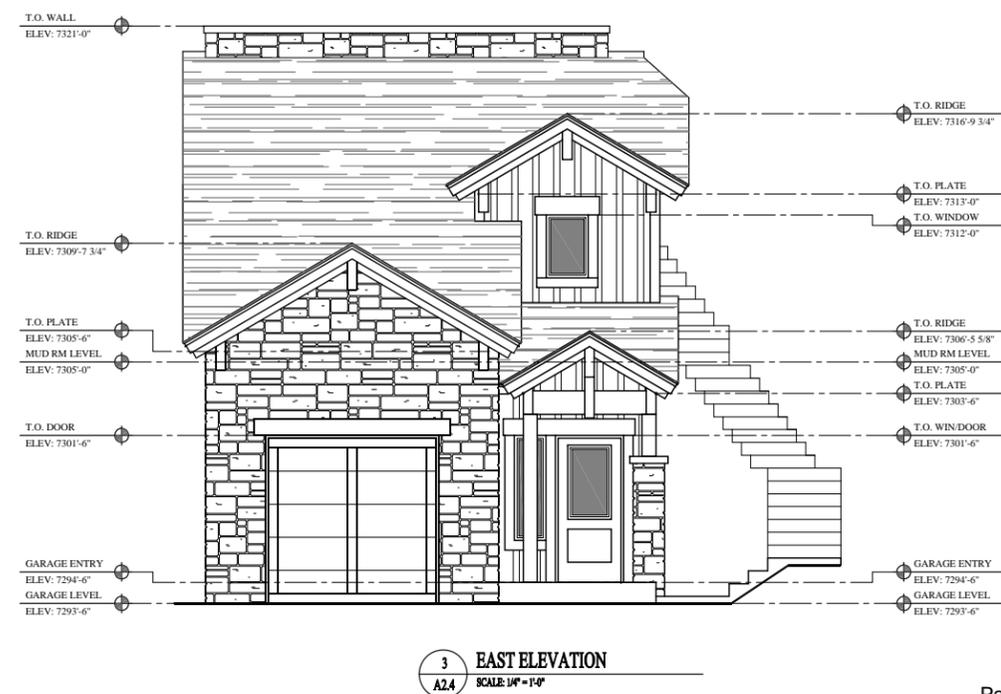
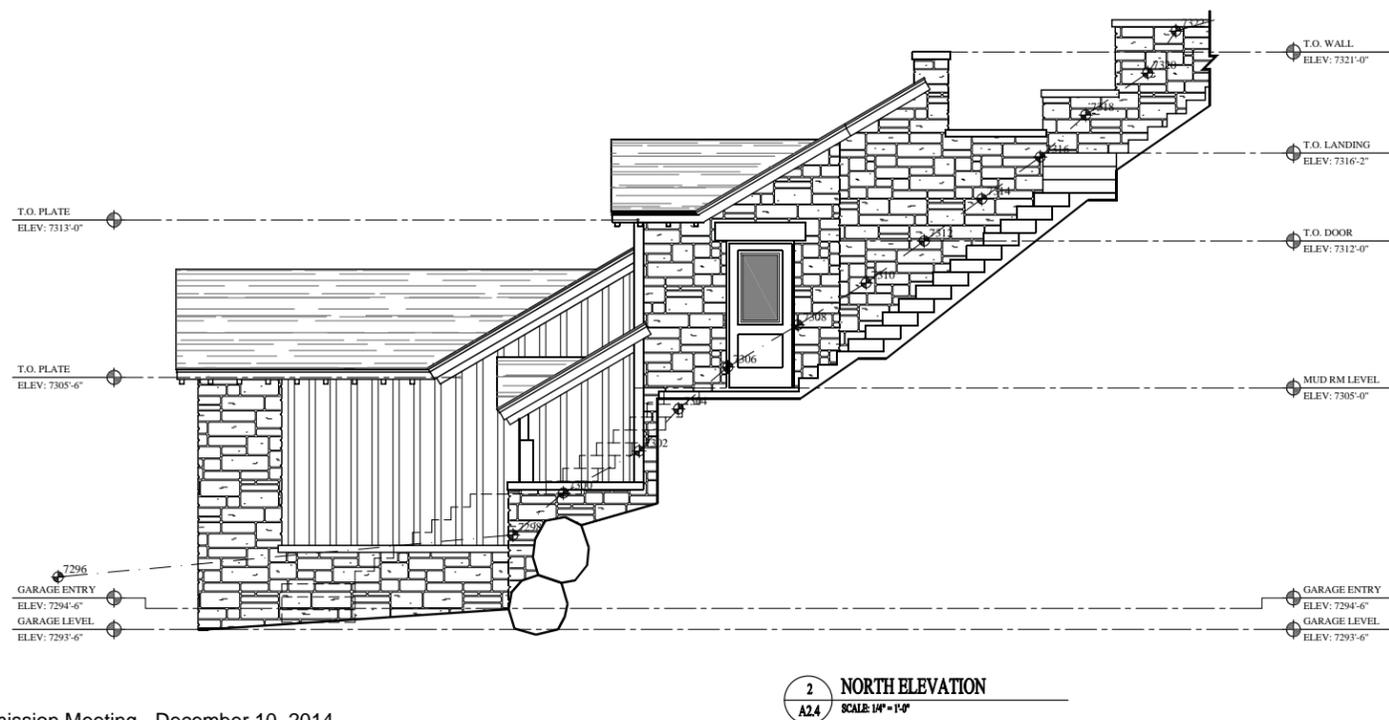
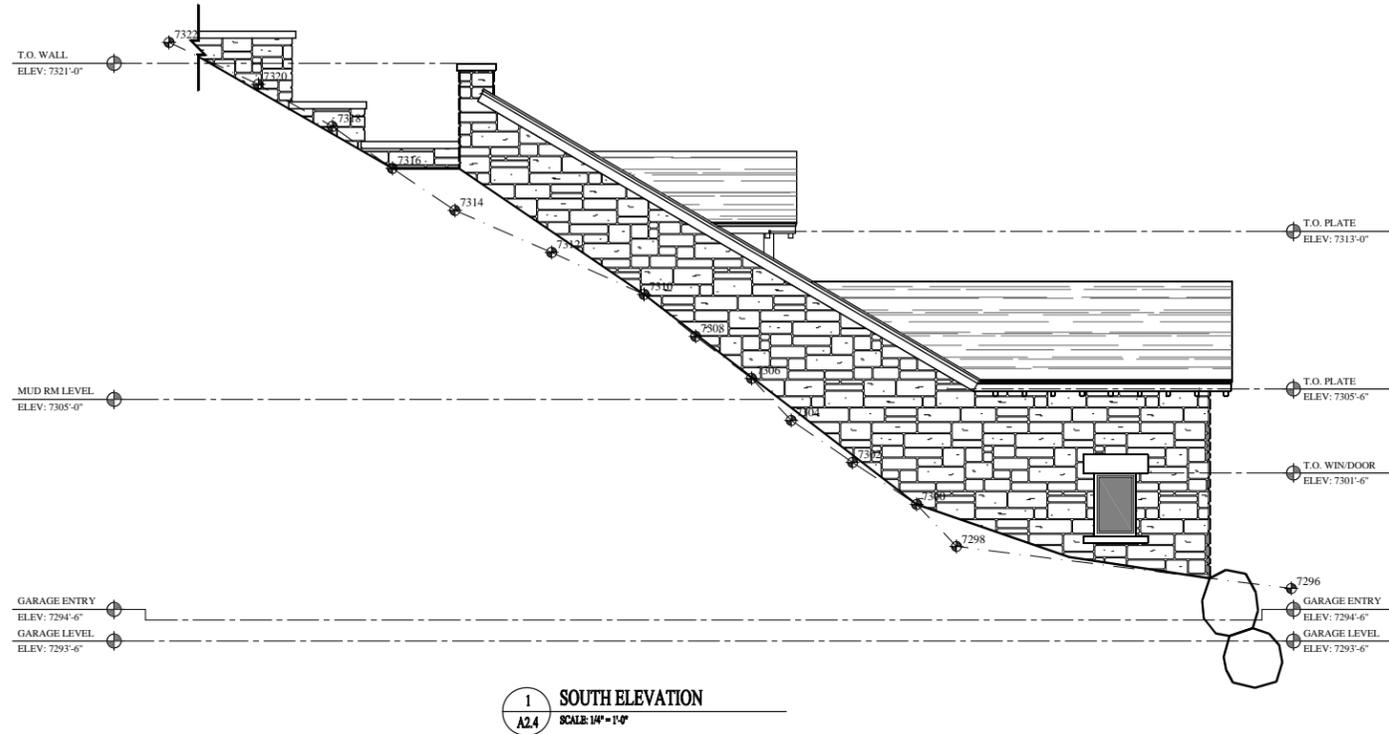
**Jonathan DeGray**  
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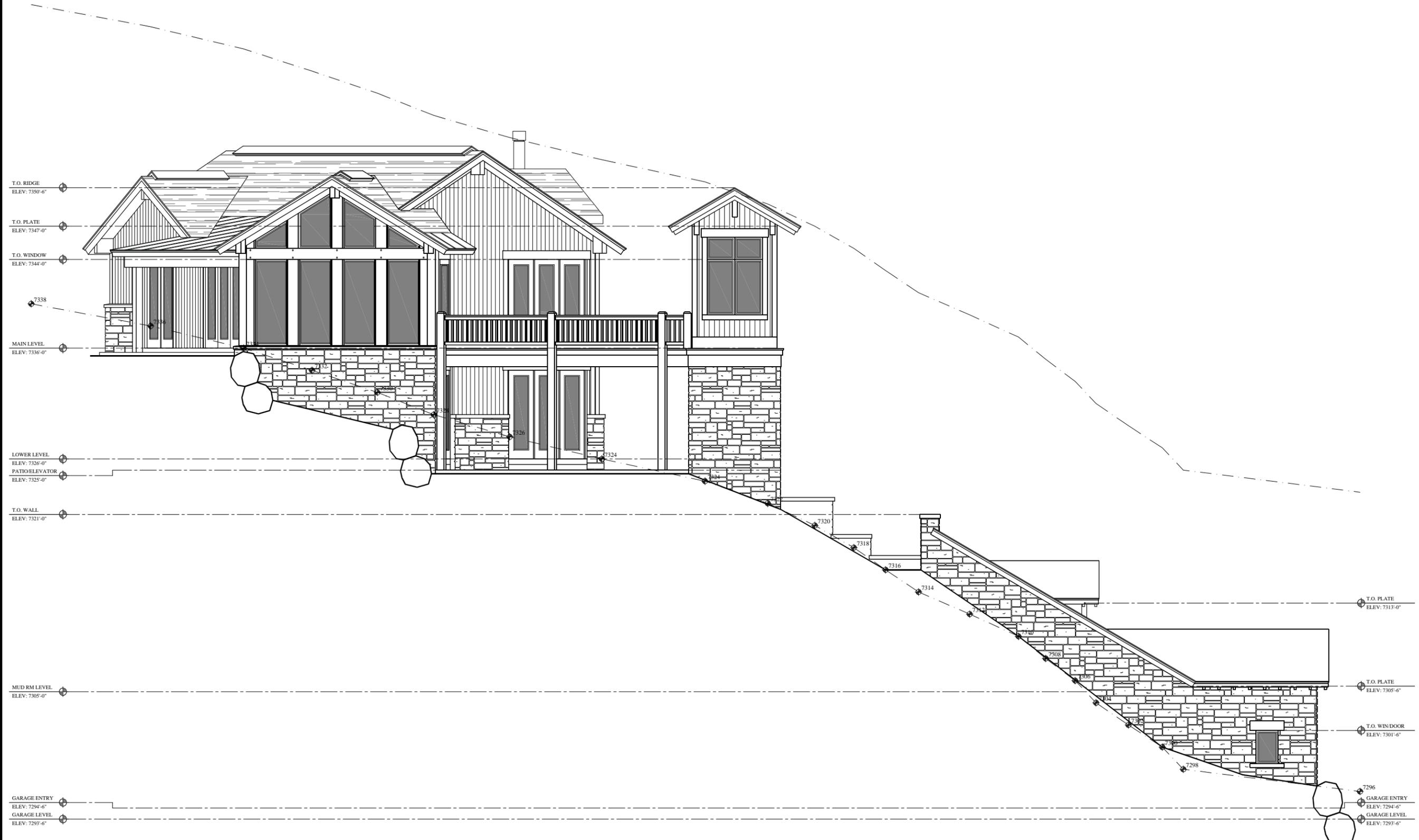
**JORGENSEN RESIDENCE**  
HISTORIC DISTRICT DESIGN REVIEW AND  
STEEP SLOPE CONDITIONAL USE APPLICATION SET  
30 SAMPSON AVENUE, PARK CITY, UTAH 84060

WEST ELEVATION

DATE:  
NOVEMBER 19, 2012  
PROJECT NUMBER:  
1112-02  
SUBSET NUMBER:

A2.3





1 SOUTH ELEVATION  
A2.5 SCALE: 1/4" = 1'-0"

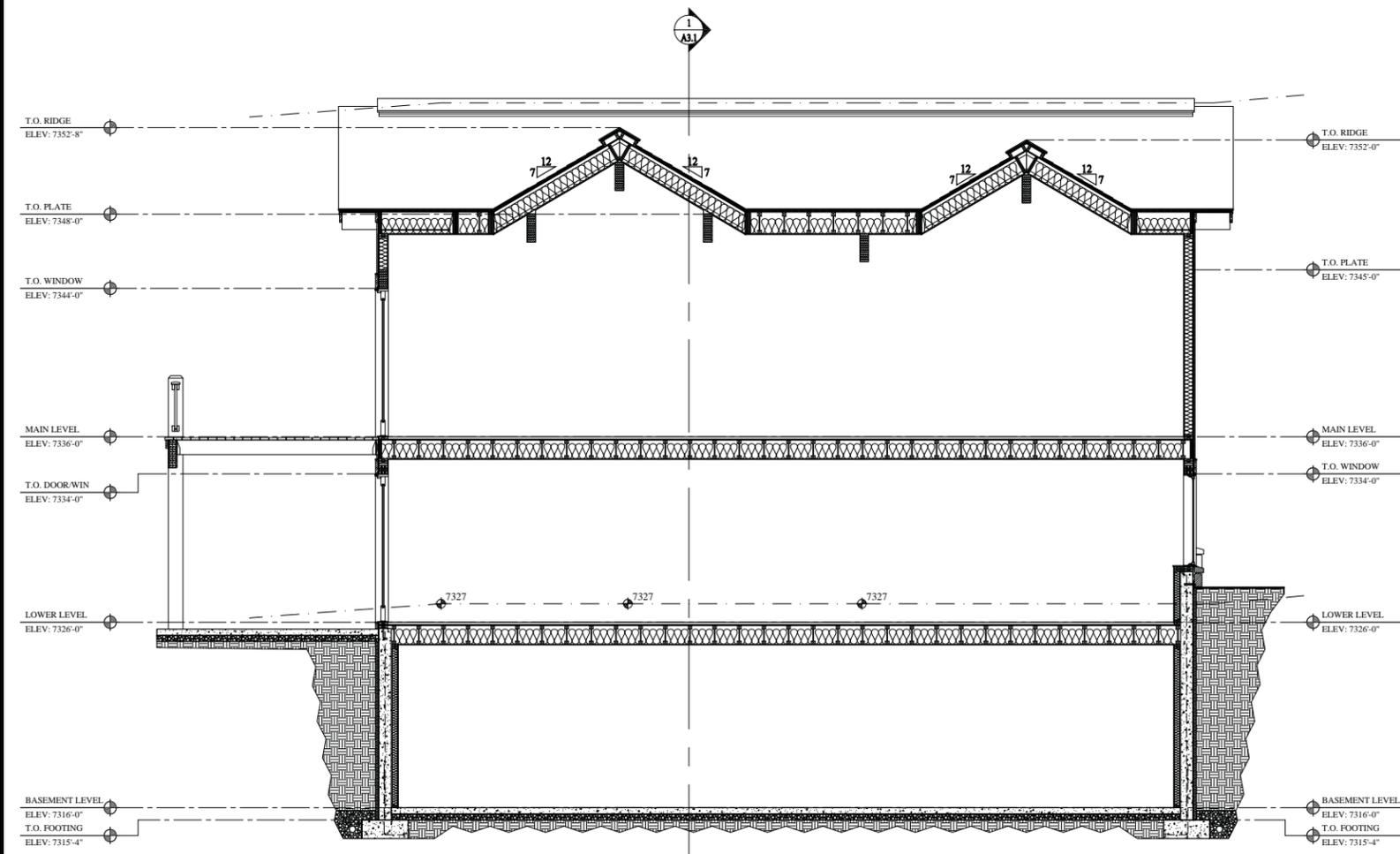
**Jonathan DeGray**  
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30 SAMPSON AVENUE, PARK CITY, UTAH 84060

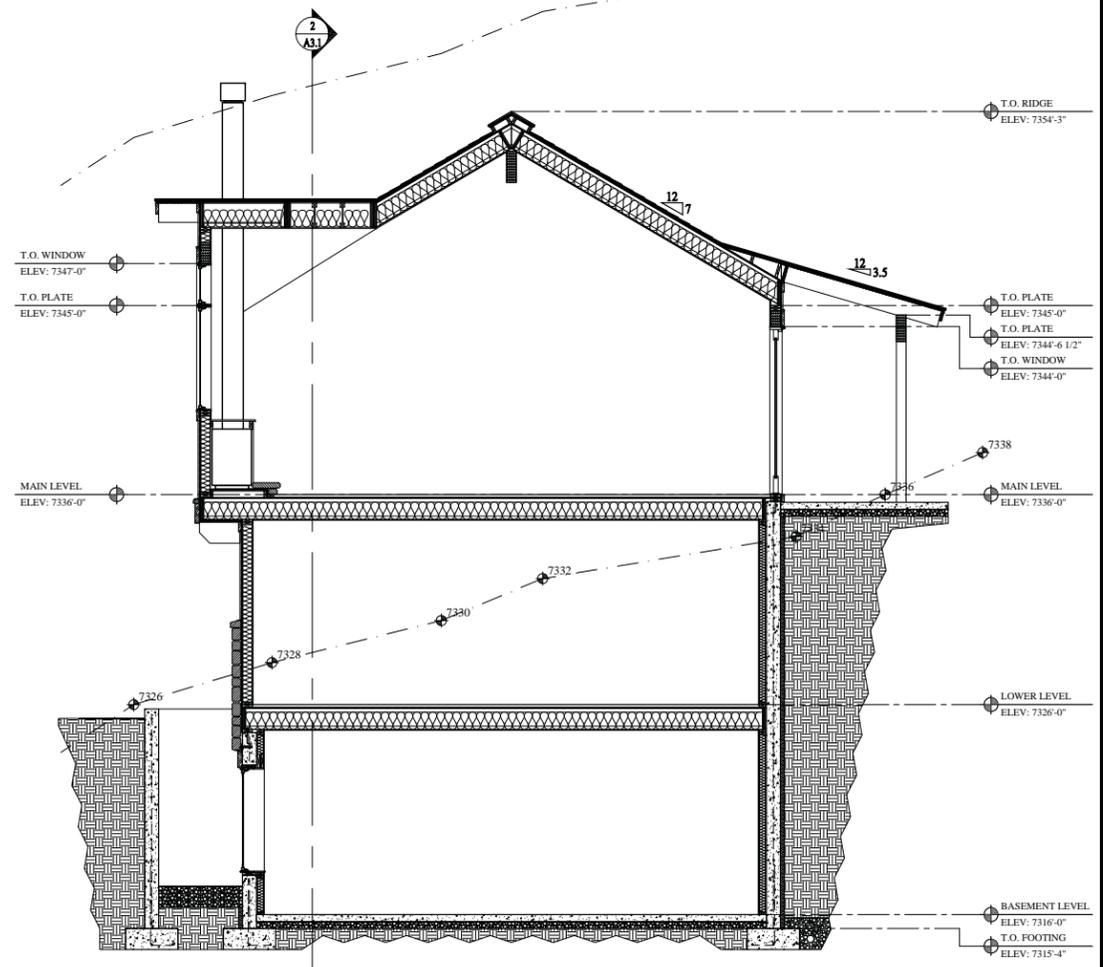
**GARAGE & HOUSE**  
**SOUTH**  
**ELEVATIONS**

REVISIONS:  
DATE: **NOVEMBER 19, 2012**  
PROJECT NUMBER: **1112-02**  
SUBSET NUMBER:

**A2.5**

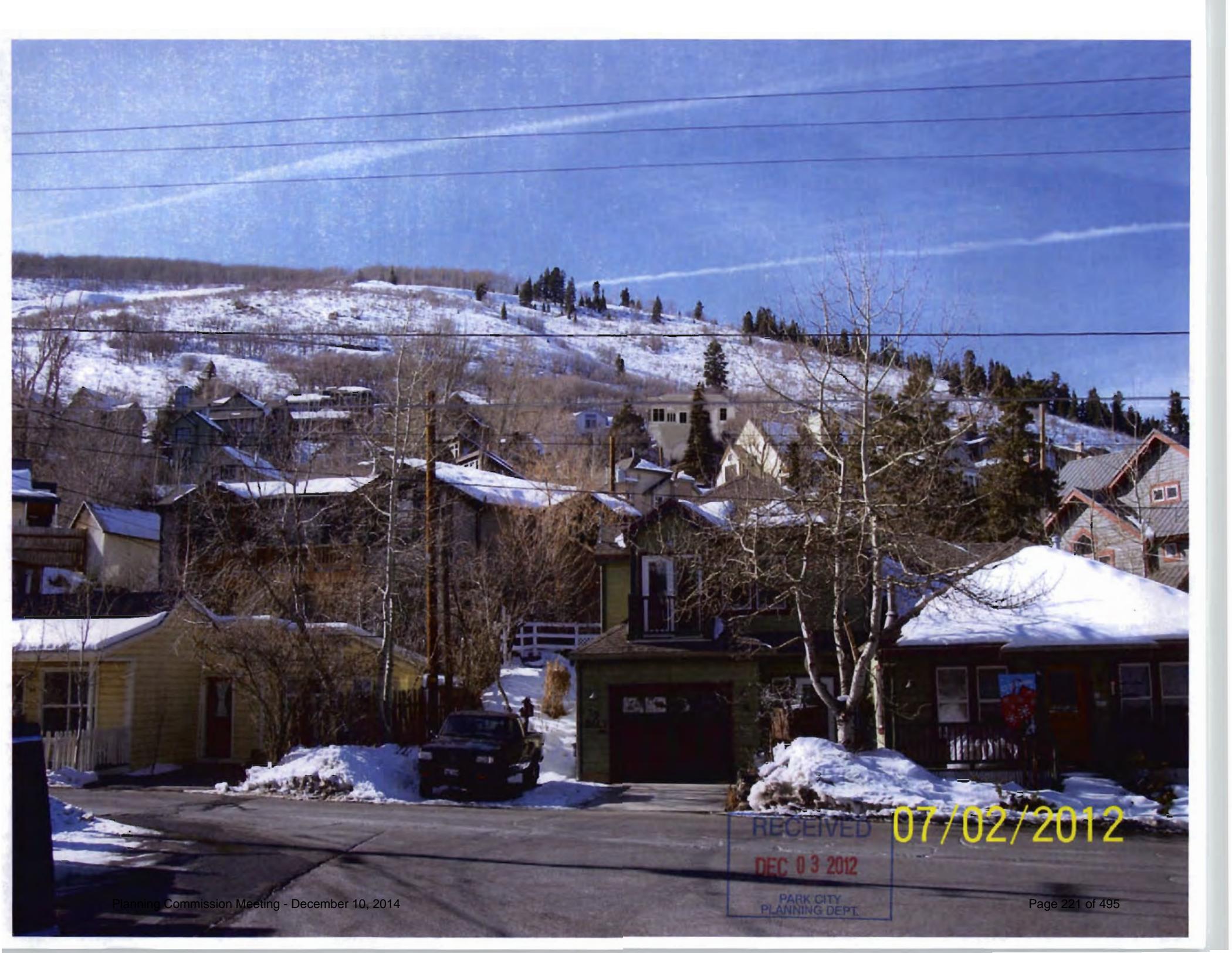


2 BUILDING SECTION  
A3.1 SCALE: 1/4" = 1'-0"

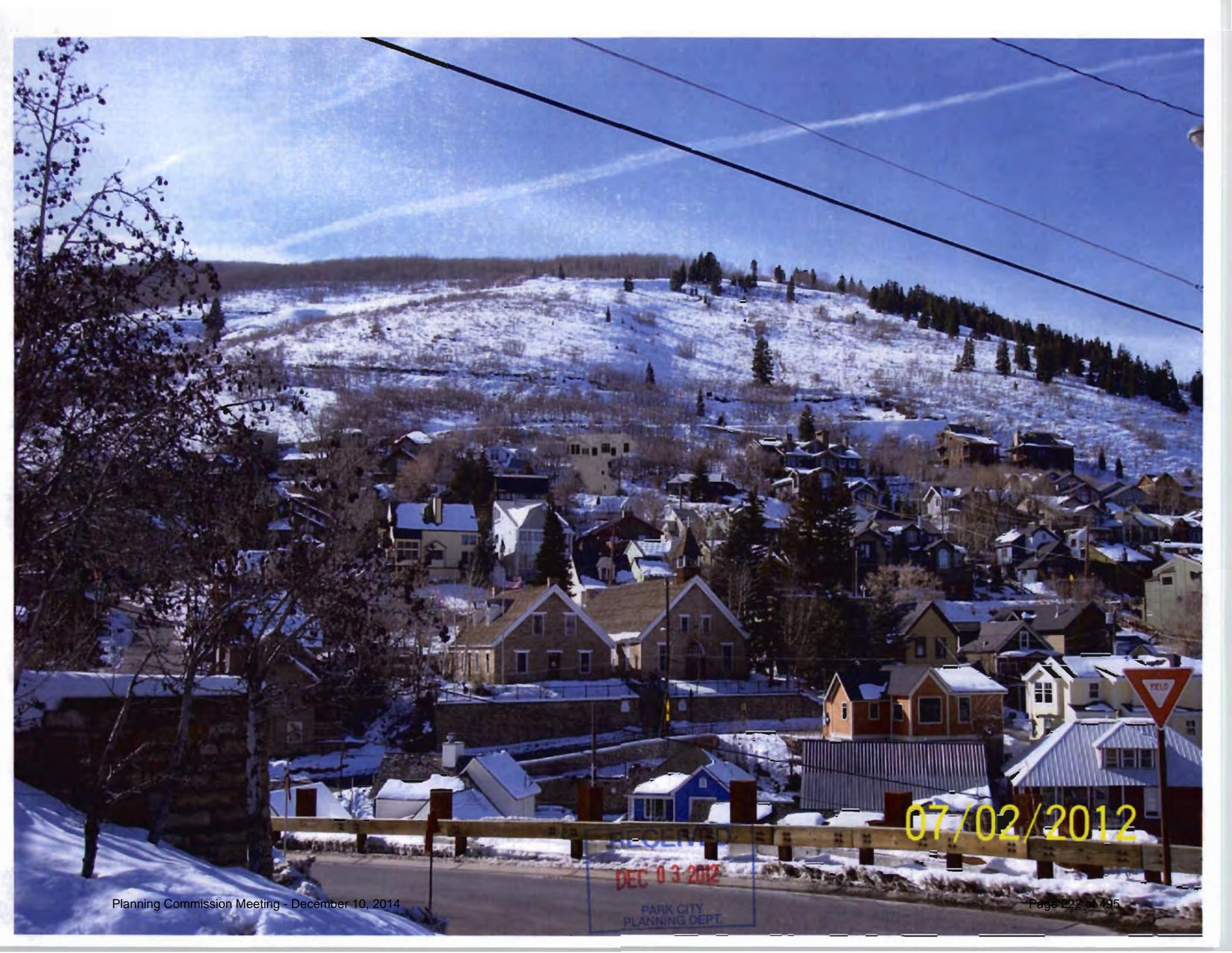


1 BUILDING SECTION  
A3.1 SCALE: 1/4" = 1'-0"





RECEIVED 07/02/2012  
DEC 03 2012  
PARK CITY  
PLANNING DEPT.



07/02/2012

DEC 03 2012

PARK CITY  
PLANNING DEPT.



Planning Commission Meeting  
Minutes of December 14, 1994  
Page 5

6. The buildings on the newly created lots shall not exceed a Floor Area ratio of 2.0.

**V. PUBLIC HEARINGS/ACTION ITEMS**

**1. 30, 40, 50 Sampson Avenue Plat Amendment**

Planner Janice Lew reported that the applicant was requesting an amendment to a portion of the Park City Survey Plat. The amendment would combine several Old Town lots into three larger parcels, thereby reducing the density and providing access to each lot from Sampson Avenue. The parcel is located in the HRL District, and the minimum lot size in the area is 3,750 square feet. The parcels are subject to floor area ratios and Historic District design standards. A number of issues listed in the Staff report were addressed in the conditions of approval or notes shown on the plat. The Planning Commission had discussed building size during the work session, and there was concern about maintaining compatibility with the smaller Old Town lots and the Historic District in that area. The Staff had not received public input other than phone calls from John Hayes and Jon DeGray requesting information about the proposal. The Staff recommended that the Planning Commission forward a positive recommendation to the City Council based upon the findings and conclusions of law and conditions of approval outlined in the Staff report.

Chair Child opened the public hearing.

The applicant, Craig Schneckloth, noted the concerns expressed by the Commissioners regarding house size on Lot 3 and suggested the possibility of two smaller houses rather than one larger home. Lot 1 would remain at 3,336 square feet, Lot 2 would be reduced to 3,230 square feet, and Lot 3 would have one house on the bottom half at 2,400 square feet and one house on the top half. Parking for four cars would be provided underneath the bottom house, and access for both houses would be from Sampson Avenue.

Since the Staff review was based on the proposal for three homes on three lots, Chair Child indicated that the Planning Commission should base their review on that proposal. Mr. Schneckloth preferred the proposal for one house on Lot 3 and explained that he had only offered the alternative as a possibility to satisfy the Planning Commission.

Commissioner Joe Tesch explained the issues involved for the benefit of the public. The applicant had taken six Old Town lots and suggested that they be reconfigured into three larger lots. The applicant had also requested home sizes that would fit within the code requirement for maximum size homes on the newly configured

lots, but the Planning Commission was struggling with the idea that the homes might be too large to be compatible with other structures in the neighborhood. Commissioner Tesch noted the possible traffic dangers involved with increased density on Sampson Avenue and noted that reducing the number of lots was a decent trade-off.

Chair Child clarified that the Commissioners favored the reduction in the number of lots, and the only obstacle was determining a reasonable house size. Commissioner Tesch was not certain that three lots was the right number. He felt the applicant had the misconception that the lower number of lots would receive more favorable review. Commissioner Tesch felt the Planning Commission wished to allow Mr. Schneckloth fair use of the property.

Commissioner Klingenstein was concerned with setting a precedent for incremental build-up in the area and suggested reducing the home sizes to 3,000 square feet on Lot 1, 3,500 square feet on Lot 2, and 3,000 square feet on Lot 3 in order to assure neighborhood compatibility.

Commissioner Jones concurred with Commissioner Klingenstein and remarked that the real issue was compatibility. The FAR's are maximum limits, and often applicants believe they are allowed to build homes to the maximum size without regard to the neighborhood. He requested that the conditions of approval reiterate that the overriding criteria for house size is neighborhood compatibility in both design issues and how the home fits on the lot relative to the neighborhood.

Commissioner Erickson noted that the proposed height did not meet the new height ordinance recommended at the previous Planning Commission meeting and questioned which height would be required. Director Lewis explained that the applicant would be required to comply with the height restriction in place at the time of building permit issuance. Commissioner Erickson clarified that the proposal would be reviewed by the Development Department for compliance with the Historic District Commission guidelines, and any appeal would be to the Historic District Commission.

Chair Child asked Director Lewis if the findings and conclusions of law should be changed if the Planning Commission approved the project with specified house sizes. Director Lewis explained that the matter would go to a public hearing before the City Council, and the information would be added as notes on the plat. The conditions approved by the Planning Commission would list all the information on the plat regarding house sizes and the Planning Commission's conclusions and findings would be included in the City Council report.

MOTION: Commissioner Chuck Klingenstein moved to APPROVE the Sampson Avenue Plat Amendment for 30, 40 and 50 Sampson Avenue as outlined by the Staff with an additional condition of approval stating that Lot 1 would have a maximum house size of 3,000 square feet, Lot 2 a maximum house size of 3,500 square feet, and Lot 3 a maximum house size of 3,000 square feet.

Chair Child clarified that the numbers pertained to the house size only and did not include a garage limit. Commissioner Klingenstein replied that a 400-square-foot garage was allowed.

Commissioner Diane Zimney seconded the motion.

The applicant stated that he had no objection and agreed to comply with the house sizes as stated in the motion.

VOTE: The motion passed unanimously.

Conditions of Approval - 30, 40, 50 Sampson Avenue

1. A note shall be required on the plat indicating that a modified 13-D sprinkler system shall be required and wood roofs are prohibited.
2. Prior to individual building permit issuance, complete plans for construction staging, construction parking, grading, erosion control and vegetation protection (LOD) shall be approved by the Community Development Department.
3. Prior to individual building permit issuance, the City Engineer shall review and approve all utility and construction plans. A 10-foot public non-exclusive utility easement shall be provided along Sampson Avenue for Lots 1 and 3. The following note shall be placed on the plat in regard to Lot 2:  
  
"In the event the house which exists on Lot 2 as of the date this plat is recorded is demolished or lost due to fire, earthquake, or other catastrophe, the owner of Lot 2 will, as a condition precedent to rebuilding a new structure, grant to Park City Municipal Corporation a 10-foot-wide non-exclusive public utility easement along and abutting Sampson Avenue."
4. Prior to plat recordation, the City Council, City Attorney, and City Engineer shall review and approve the plat.
5. All Standard Project Conditions shall apply.

6. The maximum house sizes shall be:
  - Lot 1 - 3,000 square feet
  - Lot 2 - 3,500 square feet
  - Lot 3 - 3,000 square feet

**2. Blockbuster Video CUP for Signage**

Planner Janice Lew reported that years earlier the Planning Commission spent some time reviewing signage for PayLess Drug located at 950 Ironhorse Drive. A total of 49 square feet of signage was approved by the Planning Commission with the following conditions:

- Only one sign was permitted.
- The Staff would approve final colors consistent with the color requirements of the Park City sign code.
- The sign would be externally illuminated.

The PayLess Drug sign consists of 24" letters painted a burnt red. Blockbuster Video is leasing a portion of the PayLess Drug building and is requesting approval of a master sign plan. The Blockbuster Video signage would include a primary sign. The applicants have proposed individual letters 24" in height with a yellow face totalling 46 square feet of signage. The sign would be located above the windows on the front facade of the building. An awning was proposed across the front of the building which would be burnt red to match the color scheme of the PayLess signage and would have the Blockbuster ticket logo in yellow. The signage on the awning would total 12.5 square feet.

Planner Lew indicated that the Staff had spent a great deal of time with the applicant working on the signage and was concerned with the proposal. The intent of the master sign plan was to create a common theme to tie design elements together. The Staff preferred that the Blockbuster Video signage match the color of the PayLess sign. She suggested that the Planning Commission consider a reduction in size so the Blockbuster sign would be subordinate to the main tenant signage. The Staff was also concerned with the awning which would create a dominant architectural feature on the left side of the building and an imbalance with no awning on the opposite side of the building. The Staff recommended that a smaller awning replace the large awning above the door and that the logo be permitted there for signage. The Staff also recommended that the yellow color be consistent with the Park City sign code.

Public input had not been received, and the Staff recommended approval of the master sign plan for the PayLess building with the findings, conclusions of law, and conditions of approval outlined in the staff report.

Debra M. Schneckloth  
P.O. Box 234  
Park City, UT 84060



March 30, 1998

Debra M. Schneckloth  
P.O. Box 234  
Park City, UT 84060

Dear Debra:

Your plat amendment to the Park City Survey regarding 30, 40 and 50 Sampson Avenue, which was approved by the City Council, with conditions, on February 2, 1995 specified the following maximum sizes for residential structures on the lots:

- Lot 1 - 3000 square feet
- Lot 2 - 3500 square feet
- Lot 3 - 3000 square feet

An additional 400 square feet may be added to the total floor area for a garage for each of the lots.

You recently inquired about the possibility of allowing basements in addition to the maximum house sizes specified on the lots. Since your plat amendment does not specifically prohibit basements, it is my determination that basements would be allowed provided they can meet the definition in the Land Management Code. A basement is defined as having all four walls at least 80% underground. Basements may not have an outside door (including a garage door) visible from the public right-of-way.

I apologize for any confusion the Community Development Department may have caused as we reviewed this issue. It took a few days to research how the building size has been determined on other plats. My determination is consistent with our present practice of calculating house sizes when they are specified on plats.

Sincerely,

Richard E. Lewis  
Community Development Director

M: CDD RE LETTER 1998 SCHNECKL001

00503794 Bk01134 Pg00399-00400  
ALAN SPRIGGS, SUMMIT COUNTY RECORDER  
1998 APR 07 11:28 AM FEE \$12.00 BY DMG  
REQUEST: DEBRA M SCHNECKLOTH

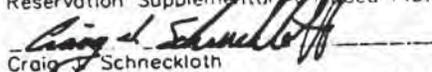
LEGAL DESCRIPTION

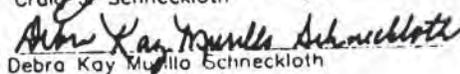
Beginning at the Northeast Corner of Lot 47, Block 78, Mill-site Reservation, The Park City Survey, and as recorded in Summit County, Utah; and running thence South 23°38' East along the Easterly line of said Lot 47, a distance of 1167 feet to the Westerly edge of an existing road, thence South 13°36'05" West along said Westerly edge, a distance of 200.84 feet; thence South 84° 42' 13" West, a distance of 26.80 feet; thence North 89°14'40" West, a distance of 54.85 feet to the Southerly line of Lot 8, Block 79, Mill-site Reservation; thence South 66°22' west along said Southerly line, a distance of 18.39 feet to a point being the common back corner of Lots 6 and 8, thence due North 225.32 feet along the Westerly line of Block 79, Mill-site Reservation, to the Westerly line of Utah Avenue as dedicated; thence North 66°22' East, a distance of 50.00 feet; to the Easterly line of said Utah Avenue as recorded; thence South 23°38' East, a distance of 65.67 feet along said Easterly line to the Northwest Corner of Lot 47, Block 78, Mill-site Reservation as recorded; thence North 66°34' East along the Northerly line of said Lot 47, a distance of 75.00 feet to the Point of Beginning.

Contains 0.58 acres more or less.

OWNER'S DEDICATION AND CONSENT TO RECORD

Know all men by these presents: That the undersigned are the owners of the herein described tract of land, and hereby causes the same to be divided into lots as set forth and shown hereon, hereafter to be known as Mill-site Reservation Supplemental Amended Plat.

  
Craig J. Schneckloth

  
Debra Kay Muriillo Schneckloth

00503794 Bk01134 Pg00400

Joint Tenants

**PARK CITY PLANNING COMMISSION  
WORK SESSION MINUTES  
DECEMBER 12, 2012**

PRESENT: Jack Thomas, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Thomas Eddington, Kirsten Whetstone, Francisco Astorga, Matthew Evans, Polly Samuels McLean

The Planning Commission held site visits prior to the work session at Lot 17, 18 and 19 of the Echo Spur Development and 30 Sampson Avenue.

**WORK SESSION ITEMS**

**30 Sampson Avenue – Steep Slope CUP (Application PL-12-01487)**

Planner Matthew Evans reviewed the application for a Steep Slope CUP for 30 Sampson Avenue. The property is located in the HRL zone which requires that any development over 1,000 square feet be reviewed as a Steep Slope conditional use permit. Planner Evans remarked that the Staff report contained several numbers related to house size, plat notes and decisions that allow a larger house than what was noted on the plat. He noted that the Staff and applicant were in agreement on the numbers outlined.

Planner Evans reported that the lot was a result of a plat amendment. It was a combination of Millsite designation lots that were combined into one larger lot approximately 7,000 square feet, and it is part of a subdivision that was approved in 1995 as Lots 30, 40 and 50 Sampson Avenue. The Staff reviewed the Staff report from the original subdivision and found that the City Council made findings for the approval of that subdivision based on the purpose statement of the HRL zone.

Planner Evans stated that this application was for a single-family dwelling unit, which is an allowed use. The conditional use is based on the fact that it is a steep slope property and must be reviewed by the Planning Commission under specific criteria. The Staff report contained the list of criteria. The Staff analysis found unmitigated impacts on Criteria 8 – dwelling volume and Criteria 9 – Building height. The Staff requested that the Planning Commission discuss the current design and provide direction to the applicant on the two unmitigated issues. The Staff found no other unmitigated impacts in the proposal submitted by the applicant.

Planner Evans reported on public input he received from the adjacent property owner, Ms. Schneckloft, regarding the snow shed easement. Planner Evans clarified that a snow shed easement is not reviewed at this point in the process; however, it would be addressed at a later time by the Building Official. When this application is further reviewed for a motion, he believed Ms. Schneckloft would offer recommendations for conditions of approval.

Commissioner Wintzer referred to the comparison of existing houses on page 61 of the Staff report and suggested that the Staff also include the proposed project to the table to make it easier to compare. Based on the purpose statement of the zones, Commissioner Wintzer could not find that the proposed structure was compatible with historic structures in the neighborhood. He acknowledged that larger structures were built before his time on the Planning Commission; however, the structure as proposed does not meet the purpose to preserve the character of historic structures. Commissioner Wintzer had additional concerns with the project, but the inability to meet the purpose statement was his primary concern regarding compatibility.

Jonathan DeGray, the project architect, asked Commissioner Wintzer for more specifics on where he believed the structure failed on incompatibility. Commissioner Wintzer replied that it was the height and mass compared to the historic structures. He was not looking at compatibility with the new structures in the neighborhood. He did not believe the City had done a good job enforcing the purpose statements in the past. In his opinion, they first need to look at compliance with the General Plan and the purpose statements of the zone before addressing setbacks and other elements. Commissioner Wintzer did not believe the proposed structure was even close to being compatible to historic structures in the neighborhood.

Mr. DeGray asked if Commissioner Wintzer was suggesting that the analysis should be geared towards historic structures and not as broad as the structures compared in the Staff report. Commissioner Wintzer answered yes because historic compatibility is identified in the purpose statements.

Commissioner Hontz concurred with Commission Wintzer in terms of height, scale and massing. She referred to page 57 of the Staff report and the Code definition for basements at the time of the plat. Commissioner Hontz stated that when the plat was written and the 3,000 square foot limitation was placed on the plat, her interpretation was that the basement as currently designed would not have been considered a basement, and therefore, would be have been counted in the square footage. She understood that 400 square feet for the garage is not counted as part of the square footage as established by the former Planning Director. Commissioner Hontz struggled with the detachment of the two structures, the elevator and the patio in between. She did not believe it was a realistic design for Park City's climate to have people go up an elevator and walk outside to reach their homes. She was concerned that at some point in the future someone would try to attach the two structures and take apart what was created to get around the story limitation. Commissioner Hontz was uncomfortable creating new problems for enforcement and more issues for neighbors and Staff, which she believed could occur if someone tried to enclose the structures. Commissioner Hontz also had concerns with the stabilization of the snow shed and keeping it within the property, and making sure the retaining walls maintain the sides. She found the driveway to be perplexing and requested a drawing to scale to show how the driveway would work.

Commissioner Gross agreed with Commissioner Hontz. He had concerns about the 20 foot access during the winter and he asked if the proposal included radiant heat from the patio to the front door. Mr. DeGray stated that there would be a waterproof deck above that provides a cover over to the elevator. The plan is also for a heated slab. Mr. DeGray noted that page 83 of the Staff report showed the elevator and the walkway underneath. He pointed out that the elevator also goes to the main floor. In inclement weather the house could be accessed from the lower level. Mr. DeGray stated that the idea of detached structures is encouraged in the Code for the H zones in terms of detached garages and separate structures to break down the mass. He felt the comments from the Commissioners conflicted with the direction encouraged in the Code.

Commissioner Gross understood the concerns regarding historic compatibility; however, he was more concerned about how it would all tie in together.

Commissioner Strachan echoed Commissioners Wintzer and Hontz. However, he agreed with Mr.

DeGray that per the Code the structures must be stepped with the grade and broken into a series of individual smaller components that are compatible with the District. The garage must be subordinate in design of the main building. Commissioner Strachan believed the language encourages having a separated garage. It would be hard to predict whether or not someone would try to enclose it eventually. Commissioner Strachan felt that overall the dwelling mass and volume was incompatible with the surrounding houses, with the exception of 205 Norfolk which should not be a basis for compatibility analysis. He views the analysis as a bell curve and the proposed project should be near the middle to be considered even close to compatible.

Mr. DeGray asked if the compatibility issue was the size of the building or the mass above grade. Mr. Strachan replied that it was mass of the building above grade. Mr. DeGray pointed out that the average for the area came in at 3700 square feet. The proposed project is larger at 4500 square foot gross, but they are comparable to the other structures at 60 Sampson, 50 Sampson and the recently approved projects at 16 Sampson and 201 Sampson. Commissioner Strachan remarked that the smaller structures such as the one at 41 Sampson are the ones that need to be taken into account. He clarified that in addition to the size above grade, it is also the size of the entire living space. Commissioner Strachan pointed out that the purpose statements in the Code do not differentiate between above grade and below grade. His primary concern was the massing above grade; however, the CUP process analysis will also look at the total area.

Commissioner Savage thought the applicant was in the zone they needed to be in as it relates to the comparables in that particular part of the neighborhood. The house looks nice and interesting and it appears to adapt to an extremely challenging lot situation. Commissioner Savage suggested that the applicant look at changing the façade of the home to make it look and feel more historic in terms of presentation. From his perspective, the design and configuration as proposed was not inconsistent with what exists in the neighborhood. He felt it was difficult to be consistent with a hodgepodge of structures.

Commissioner Hontz noted that page 73 of the Staff report showed the size of surface parking and asked for the dimensions. Mr. DeGray replied that it was 9' x 18'.

Vice-Chair Thomas agreed that it was a difficult argument to fit within the purpose statements and the burden was on the applicant to demonstrate compatibility with the historic fabric of the community in terms of mass, scale and height, and how it is consistent with the purpose statements. He noted that the Planning Commission has the purview to reduce height on a Steep Slope CUP and he would prefer to see the height reduced. Vice-Chair Thomas struggled with the drawings presented and questioned how it was not one house based on the design. The roof is connected to the elevator and the elevator is connected to the garage, which makes it one structure exceeding three stories. Vice-Chair Thomas felt the argument was whether or not this was one house.

Mr. DeGray stated that the deck and patio are required to meet setback requirements, which treats them like a structure. Having a deck or patio connect from an accessory structure to a main structure does not technically connect buildings. Vice-Chair Thomas understood the point Mr. DeGray was making, however, he wanted to see that defined in the drawings to prove his point. Planner Evans remarked that it would definitely be an issued if the foundation was connected. Mr.

DeGray noted that the deck touches the elevator shaft, but it is an open air connection.

**Lot 17, 18 and 19 Echo Spur Development – Plat Amendment  
(Application PL-12-01629)**

Planner Francisco Astorga noted that on September 12, 2012 the Planning Commission requested a site visit and work session for the Echo Spur Development Replat. The applicant also submitted additional information that was requested, including preliminary plans of the site. Planner Astorga noted that the plans were more specific than preliminary and the Staff was still working on reviewing the plans.

Planner Astorga reviewed the application for a plat amendment on platted McHenry. As previously noted, the City Engineer would eventually change the name of the road once it is fully dedicated to the City.

Planner Astorga reported that the applicant had submitted an application for a plat amendment to combine lots 17, 18 and 19. He presented slides to orient the Planning Commission to what they had seen during the site visit. He also presented the County Plat showing the ownership of the property. On September 12, 2012 the Planning Commission discussed vantage points per the Land Management Code. Planner Astorga noted that the LMC does not have a defined vantage point from where the development would be visible. However, the LMC identifies cross-canyon view as a vantage point. The applicant had submitted a total of six vantage points; three on Deer Valley Drive by the access to Main, one by the entrance at the Summit Watch, one at the roundabout, and another closer to the property. Planner Astorga reviewed slides from the stated vantage points.

Commissioner Savage concluded from the photographs that the development was basically invisible. Commissioner Gross concurred. Commissioner Hontz stated that she personally stood at each of the vantage points and concluded that the development would be visible, particularly the retaining wall. Commissioner Strachan remarked that the brown house behind the retaining wall was also visible. He pointed out that photographs are not entirely reflective of what the human eye would actually see.

Scott Jaffa, the project architect stated that the intent was never to make the house invisible. The existing scrub oak is 12 feet high and the house would sit approximately 12 feet above. It is surrounded by houses at the bottom on Ontario, as well as houses above it. The house is nestled in its surrounding environment.

Planner Astorga reviewed the elevations. He noted that the site is zoned HR-1 which has a 27' foot height limitation and a required 10 feet setback on the downhill façade. Planner Astorga stated that at the last meeting the Planning Commission discussed the 2007 settlement agreement. He had verified with Jack Fenton that the disputes with the settlement agreement had been resolved and both parties were satisfied with the outcome. Planner Astorga had done a more specific analysis of the Ontario neighborhood as shown on page 9 of the Staff report. The analysis concluded that the average width is approximately 36 feet and the average lot area is approximately 2800 square feet for those lots.

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
APRIL 10, 2013

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage Adam Strachan, Jack Thomas

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Planner; Matt Evans; Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

**ROLL CALL**

Chair Worel called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioner Savage who arrived later.

**ADOPTION OF MINUTES**

February 20, 2013

Commissioner Wintzer referred to page 23 of the Staff report, page 25 and noted that he had recused himself prior to Mary Wintzer speaking during public input. He corrected the minutes to reflect that he had recused himself and left the room.

Also on page 25 of the minutes, last paragraph, last sentence, Commissioner Wintzer corrected the sentence, "Commissioner Wintzer suggested revising the language..." to correctly read, "**Mary Wintzer** suggested revising the language..."

Commissioner Hontz referred to page 21 of the Staff report regarding the Prospector/Bonanza Park discussion and recalled a request from the Planning Commission to further separate the two areas. She thought the Planning Commission had resolved a way to address the separation. Commissioner Wintzer recalled that the Planning Commission had agreed that the residential part of Prospector should be treated like a residential neighborhood and they gave the Staff direction to look into it. Chair Worel did not believe the Commissioners had come to a resolution.

Director Eddington reported that the Staff went back and looked at some of the indicators that were being used for that particular neighborhood, and they ended up removing some of those indicators because some were commercially based and others were residentially based. The draft General Plan included a sanitized version of those indicators, which addresses that concern. However, the Staff also made a note to address it further as they go through the draft General Plan over the next eight months. The Planning Commission would receive a matrix of a proposed schedule to review the General Plan in an effort to have it finalized by the end of the year.

Commissioner Hontz noted that the written Condition #4 would become Condition #5. She revised that language to read, "Modified 13-D sprinklers may be required by the Building Official for any construction." She commented on the important of making sure the Findings and Conditions are concise and legally defensible.

Regarding the language the new Condition #5, Director Eddington preferred to expand the modified condition to match the language in the condition of approval for 343 Park Avenue. "Modified 13-D sprinklers shall be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation." Commissioner Hontz concurred.

Commissioner Savage stated that he was not as detail-oriented as some of the other Commissioners, but he was curious about language in Finding of Fact #12 that talks about the maximum allowed footprint of 994 square feet, but then says the footprint will not exceed 600 feet. He understood the intent but it was confusing. Commissioner Hontz clarified that it was her reason for suggesting that the first sentence be deleted and that the Finding begins with "Potential development on the property is limited to...."

Commissioner Strachan pointed out that Finding of Fact #14 was actually a Conclusion of Law. He recommended that it be deleted from the Findings and insert the language as Conclusion of Law #1.

MOTION: Commissioner Savage moved to CONTINUE the discussion of the 206 Grant Avenue plat amendment to April 24, 2013 Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

**3. 30 Sampson Avenue – Steep Slope Conditional Use Permit.  
(Application PL-12-01487)**

Commissioner Wintzer disclosed that he has a business association with Wade Budge, the attorney for the applicant. Commissioner Thomas disclosed that he also knew Wade Budge.

Planner Evans noted that the Planning Commission reviewed this item in December as a work session. The Work Session minutes were attached as Exhibit F. The minutes from the August 2012 meeting session was identified as Exhibit E in the Staff report; however, that Exhibit was inadvertently left out of the Staff report.

Planner Evans had emailed a corrected analysis to the Commissioners showing the correct numbers for the home at 30 Sampson Avenue. He noted that a lot of numbers were involved in the Staff report and any questions regarding the numbers would be referred to the applicant's representatives.

Commissioner Savage assumed that Planner Evans had reviewed and corroborated all the numbers, and any comments or explanations by the applicant or his representatives would also be on behalf of Planner Evans. Planner Evans replied that the Staff and the applicant had reviewed the

numbers and agreed upon them. Mr. DeGray concurred that the only discrepancy were the numbers on the matrix for 30 Sampson and that had been corrected.

Planner Evans remarked that there are nine criteria to be considered when reviewing the Steep Slope CUP. He noted that the project would go through a formal HDDR process, but that had not yet occurred. Therefore, any design features have not been approved and were still subject to HDDR review. He recommended that the Planning Commission look at the house and associated structures from the standpoint of form rather than the actual details with respect to materials and design.

Commissioner Thomas pointed out that mass, form and scale were also design elements, and as an architect, they are critical design elements. Planner Evans agreed. He was only pointing out that the Staff and the Design Review Team would be looking at those issues independent of the steep slope conditional use permit.

Planner Evans reviewed the nine criteria for review and how it was specifically applied to 30 Sampson Avenue. The Staff no unmitigated impacts on Criteria 1-7, and requested discussion on Criteria 8 and 9.

Criteria 1 – Location of Development. Planner Evans indicated an existing platted subdivision lot that was created in 1995 and specific conditions and criteria was recorded on the property, as documented in the Staff report. The structure was limited to 3,000 square feet. Discussions during the 1995 approval allowed a 400 square feet addition for a garage, for a total maximum of 3400 square feet. Planner Evans remarked that the Staff report also notes that in 1998 a decision was made by the Community Development Director that the 3400 square feet did not apply to a basement that is completely subterranean underground that meets that criteria. For that reason, Planning Commission was looking at a building that appeared to be much larger than what is recorded on the plat. The letter from the former Community Development Director was attached to the Staff report as Exhibit D.

Commissioner Thomas asked if the previous decisions over-ruled the 2009 Code that has different stipulations for those areas. Planner Evans stated that the applicant is vested for 3,000 square feet plus 400 square feet for the garage, not counting the basement. Commissioner Thomas thought the applicant was also held accountable to the interpretation of the 2009 revised Steep Slope CUP process. Planner Evans answered yes. Commissioner Thomas questioned the process if the current Code differs from the letter issued from the Community Development Director in 1998. Planner Evans replied that how it differs would depend on the Planning Commission's interpretation.

Commissioner Savage asked if the letter was considered to be a modification or an interpretation. Planner Evans replied that it was an interpretation. Commissioner Strachan understood that it was an interpretation of the plat amendment, not the Code. Planner Evans agreed that it was not a Code interpretation.

Criteria 2 – Visual Analysis. Planner Evans pointed out that the visual analysis had two missing components. One was 16 Sampson, which is an approved HDDR and Steep Slope CUP, and has a

similar sized home being built. The second was the potential development above this lot on Lot 1 of Treasure Hill, which also would add to the visual analysis but is currently an unknown.

Commissioner Wintzer clarified that the Treasure Hill property was not in this zone. Planner Evans replied that this was correct. It was directly above 30 Sampson in the HR-1 zone.

Criteria 3 – Access. Planner Evans noted that this property only has access on Sampson Avenue. No other access is contemplated.

Criteria 4 - There is no terracing; however, there is initial grading and stabilization. Some retention will be required.

Criteria 5 – Building location. Planner Evans reiterated that they were dealing with a previously approved building lot, Lot 3 of the Millsite Subdivision amended plat.

Criteria 6 – Building form and scale. The Planning Commission would be looking at the form, mass and scale of the home.

Criteria 7 – Setbacks. As indicated in the Staff report, because of the shape of the lot, the Code requires that the Planning Director do a setback analysis, which was previously done and included in the Staff report. Planner Evans stated that a lot with this configuration might have a 10' front yard and 10' rear yard and 5' side yard setbacks based on the lot width. This is an odd shaped lot with many different sides. Therefore, the Planning Director made a determination as to setbacks; 15' front, 15' rear and setbacks that vary on the side from 5' to 8' feet and 10' in some spots.

Criteria 8 – Dwelling volume. The Staff requested discussion from the Planning Commission on the building volume. The applicant had redesigned the home from its original design, which contemplated a two car garage, to a one-car garage in an effort to reduce the appearance of the building volume looking at it from Sampson Avenue.

The Staff had proposed questions for discussion.

Criteria 9 – Building Height. Planner Evans remarked that the maximum building height was 27'. The proposed dwelling does not exceed 27'; however, because of the steep slope situation, the Staff requested discussion by the Planning Commission.

The Staff had drafted findings of fact, conclusions of law and conditions of approval.

Wade Budge, counsel representing the applicant, introduced the property owners, Michael and Lori Jorgensen. Mr. Budge provided a brief background of the history of the property. He felt it was important to keep in mind that this property was platted from approximately 13 lots, allowing the potential to have more density in this area. However, in 1995 the property was part of a plat amendment to have three lots placed in this area and the plat was recorded. Mr. Budge stated that 30 Sampson was the last of the three lots to be developed.

Mr. Budge pointed out that the minutes from the 1994 Planning Commission meeting was attached to the Staff report. At that time it was determined that a home was appropriate for this site and plat notes were placed on the plat reflecting that. Mr. Budge felt it was important to note that the garage issues were discussed; as well as the idea of having a home on the property. He remarked that the slope was also discussed at that time. Those issues have already been considered, and he was pleased that they would be considered again because they were interested in hearing input from the Planning Commission before proceeding.

Mr. Budge thought the Staff report was very thorough and well-done, the applicants agreed with the analysis. He wanted to touch on a few points and asked Jonathan DeGray, the project architect, to talk about massing and some of the design changes. He believed the changes were important as the Planning Commission considers potential impacts.

Mr. DeGray reviewed changes to the garage based on the discussion with the Planning Commission during the site visit. Based on their concerns, the driveway was dropped approximately 1 foot and the slope was reduced. Mr. DeGray reviewed the site plan and noted that it was virtually flat on the south side of the driveway going to about a 10% grade on the right-hand side of the driveway facing it from the street. Mr. DeGray stated that since the initial application, the garage was changed from a two-car to a single-car garage. By doing so reduced the width of the frontage.

Commissioner Savage asked if it was a single car garage or a tandem two-car garage.

Mr. DeGray replied that it was a long single-car garage. It does not meet the requirements of tandem. However, two small cars could fit in it. Mr. DeGray stated that the second off-street parking space would be maintained on grade with the spur that goes off to the north.

Mr. DeGray stated that the width of the building was reduced to soften the appearance on the street.

In terms of relationships to other buildings on the street it is probably one of the smallest structures on Sampson. The shape of the lot dictates that the bulk of the building be set back. As noted in the Staff report, the distance of the property line to the front of the building of the residence is 77 feet, which is considerably further back on the lot.

Mr. DeGray referred to Criteria 8 and 9 in the Steep Slope CUP. Regarding Criteria 8, Mr. DeGray stated that building volume is a product of the lot shape. The Planning Commission has already discussed the unusual hourglass shape and topography of the lot. It is dictated that the house be broken into two pods; the driveway/garage portion closest to the street, and then 70+ feet back up the hill is the residence. The residence above grade is a two-story structure on the front and single story at the rear. Above grade the two stories equal 2400 square feet of building area. Mr. DeGray believed the home was a modest home in terms of building size visible from the street. He noted that 77 feet back would allow for significant vegetation between the garage and the main house. Surrounding the main house is predominantly a scrub oak forest. Mr. DeGray stated breaking it into two pods reduced the dwelling volume considerably, compared to other structures on the street. He used 40, 60 and 99 Sampson as examples of larger structures along the road.

Mr. DeGray stated that the proposed garage is a 900 square foot structure. He noted that 50% of the garage structure is buried into the hillside; however, the entire square footage of the garage is counted in the maximum square footage. Mr. DeGray pointed out that the height of the structure is limited to 25 feet. One area of the home is 27 feet.

Mr. DeGray referred to the visual analysis drawings and noted that the house was only found to be visible from the trolley turnaround or from the top of Hillside at the intersection of Marsac. Mr. DeGray stated that another consideration was how the structure fits into the hillside and how it looks with the other residences. He would argue that it fits within the context of the entire hillside.

Mr. Budge thought the minutes from the 1995 process were informative. A lot of analysis was done by the Planning Commission at that time, and while it should not substitute for the judgment of the current Planning Commission, it was helpful and should contribute to their analysis. Mr. Budge believed the 1995 analysis shows that there was a lot of discussion about the kind of square footage that would be appropriate for this particular terrain. In the case of the adjacent lot at 40 Sampson, the determination was made that a larger structure would be appropriate. At some point in time it was possible that up to 3500 square feet above ground could be located next door and due south of this structure. Mr. Budge felt that was important to keep in mind as they analyzed the issues.

Mr. Budge remarked that a Code exception resulted from the 1995 process and is found in the Park City Code. He noted that it has been referred to as the Schneckloth exception. The exception allows someone in this particular subdivision to avoid this CUP process. Mr. Budge stated that the applicants were here this evening because they submitted an application, but he felt it was important to read what the City Council determined and said about this particular subdivision relative to that process. Mr. Budge read, "In conjunction with the subdivision or plat amendment, several property owners have undergone a review process comparable to that listed in the conditional use section B above." That section is the steep slope process they were talking about today. Mr. Budge stated that the City did not seek to subject those owners to additional Planning Commission review. He noted that further language allows the applicant to bypass the process and go directly to the Planning Director.

Mr. Budge emphasized that this property has already gone through great review. As an applicant, they have been very careful to make sure their proposal is in strict conformity with what was approved. Mr. Budge summarized that a plat was approved and recorded in 1995 and a statement was made that the maximum size of 3,000 square feet was appropriate for the site. In those same discussions a clarification was made relative to a 400 square foot garage not being included in the 3,000 maximum. In addition, as reflected in Exhibit D in the Staff report, in 1998 a determination was made regarding the basement issue. Mr. Budge reported that Mr. Jorgensen wanted the issue clarified before purchasing the property. Therefore, the seller, Ms. Schneckloth, sought that determination from the Community Development Director and the determination was recorded against this property. On that understanding, Mr. Jorgensen purchased the property that same year.

Mr. Budge stated in talking about detrimental impacts, they need to balance the interests and the expectations of the property owner with the impacts that would be created by his proposed structure.

Mr. DeGray commented on Criteria 9 – Building height. He reiterated that 25' was the general height of the main home. One portion was 27'. The structure is two stories in the front and one story in the back sitting parallel to the contours. He indicated a vertical change in the building site of 30 feet between the front garage pad and the home. Combined with the 70 feet of horizontal

change there is a great deal of variation in terms of building volume and the perceived building height as the building is viewed from the street and from a distance.

Mr. DeGray did not believe the renderings clearly showed the actual separation between the buildings. He reviewed the south elevation to show the distance between the garage and the main building. He noted that the portion in between the garage and the elevator is also a planting area. The garage would be a lower structure just over 20 feet at the ridge. He pointed out the 27' height line directly above the main house. It would be a modest structure of 2400 square feet sitting on top of the hill.

Mr. DeGray commented on the purpose statements in the HRL zone. He read from Item A, "Reduce the density that is accessible only by substandard streets so that these streets are not impacted beyond a reasonable capacity." Mr. DeGray reiterated that the plat reduced the subdivision from 13 platted lots to three platted lots. The property is in the HR-L zone. Historically HR-L zoning is larger lots at a two lot minimum of 3750 square feet and larger homes. The HR-L densities are different from the densities in the HR-1 zone.

Mr. DeGray read from purpose statement B, "Provide an area of lower density residential use within the old portion of Park City. He again noted that the plat reduced the density and therefore meets the purpose. Item C, "Preserve the character of historic residential development in Park City". Mr. DeGray stated that the proposed home would meet the design guidelines, it meets the steep slope criteria, and it is sensitive to the character of historic residences in the area. Item D, "Encourage preservation of Historic Structures." Mr. DeGray pointed out that there are no historic structures on the site. The closest historic structure is the adjacent property which is also within the same subdivision. As previously stated, that lot has an above grade building size of 3500 square feet plus basement plus a 400 square foot garage. It is the largest lot on Sampson Avenue at 11,000 square feet. Item E, "Encourage construction with historically compatible structures that contribute to the character and scale of the historic district and maintain existing residential neighborhoods. Mr. DeGray stated that compatibility within the HRL Zone is only defined in the LMC as height, footprint, setbacks, and meets the criteria of the steep slope CUP. Mr. DeGray believed the design as proposed met all the requirements.

Mr. DeGray noted that the Staff had provided additional comparisons of building size in the Matrix contained in the Staff report. If one of the criteria for compatibility is viewed as building size, as proposed by Staff, he thought it was fair to review compatibility with historic structures by reviewing what the historic structures in the area actually are, as well as how they have been renovated and could potentially be renovated. Mr. DeGray stated that 16 Sampson Avenue, which recently received an approval, is a historic structure. The project is a reconstruction resulting in 4,141 square feet gross. The lot size is equivalent to 3.2 lots. Mr. DeGray remarked that 40 Sampson Avenue is the Schneckloth property. The lot is the equivalent of six old town lots and the structure could be as large as 3500 square feet. Mr. DeGray noted that 41 Sampson across the street is currently a condemned structure due to the wall that supports Sampson Avenue. However, that property has an approval for a new structure at 4,154 square feet gross. He noted that 60 Sampson Avenue, which is a historic renovation, is 4,246 square feet on the equivalent of 3.5 lots. In comparison, Mr. DeGray pointed out that 30 Sampson Avenue is the equivalent of 3.7 lots at 7,000 square feet. It is the second largest lot on the street. The applicant was proposing a gross

square footage of 4,585 square feet. Mr. DeGray remarked that this proposal was very compatible based on the historic homes in the area and how they have been renovated. The same could be said for compatibility with new construction at 50 Sampson, as well as the homes at 201 Norfolk, 99 Sampson, and other properties in the neighborhood.

Mr. DeGray pointed out a smaller structure at 121 Sampson at 854 square feet. It is not a historic structure and could be torn down. The structure sits on 3.5 lots.

Mr. DeGray stated that building size is one level of comparison for determining compatibility, and he believed another level needs to be mass and scale. They have talked about the visual analysis and how the mass and scale of the building fits within the context of the hillside of the Sampson Avenue/Norfolk/King Road/Woodside area. He would argue that the building fits within that character.

Mr. DeGray remarked that a third level to judge compatibility would be the fact that the home needs to work within the Historic District Design guidelines. He emphasized that the home would meet those guidelines, and therefore would be compatible in its design and appearance. Mr. DeGray stated that the last item for judging compatibility was the 1995 plat, which stipulates compatibility based on building size. They also meet that criteria.

Mr. Budge understood that the elevator was discussed in prior meetings. He clarified that the purpose of the elevator was more than just convenience. Michael Jorgensen is a doctor. He does not see patients at home, but some of his friends, particularly one in a wheelchair, need accessibility. The elevator allows the owners to make use of their property and make sure that all of their guests could access their home. Mr. Budge believed the proposed design accomplishes that, and is done in a way that is consistent with the Code.

Mr. Budge stated that they have tried to anticipate all detrimental impacts and mitigate them as best as possible. They believed all the impacts had been mitigated by the design, but they were interested in hearing from the Planning Commission.

Chair Worel opened the public hearing.

John Vrabel stated that he lives across from 30 Sampson Avenue. Mr. Vrabel commented on structures in the area that were smaller homes, including 41 Sampson at 1100 square feet. His house at 33 Upper Norfolk is only 800 square feet. Mr. Vrabel noted that the proposal for 30 Sampson was not totally compatible with all the surrounding structures. In his opinion, two parking spaces was not sufficient for the size of the home proposed.

Susan Fredston-Herman stated that she was an adjacent property owner and was concerned with the status of Sampson Avenue. A building permit has been issued on her property and they are required to begin construction on May 15<sup>th</sup>. They have been told that the road cannot handle construction traffic, which puts them in a very difficult situation. They have a contractor waiting to start, but no one know if they can move forward. Ms. Fredston-Herman remarked that the integrity of the road is an issue. The road is clearly failing, which is why 41 Sampson has been condemned. She was concerned about the construction schedule of her project and additional projects. With no

disrespect to the Jorgensen project or anything else, Ms. Fredston-Herman requested that this item be continued until the City makes a determination on when the road would be repaired, how it would be repaired and how it affects the property owners on Sampson Avenue and adjacent properties. Ms. Fredston-Herman believed the issue of road safety was important and her concern was the sequence of events on Sampson. Until there is clarity on that situation and whether the road can handle construction equipment this item should be continued.

Chair Worel closed the public hearing.

Commissioner Savage asked if he was correct in assuming that the Planning Commission was looking at a recommendation on a conditional use permit related to a steep slope, and that the issuance of a building permit associated with construction of that project would be subject to separate reviews as mentioned by Ms. Fredston-Herman.

Director Eddington stated that if construction could not be started within a certain period following the CUP approval, the owner loses the CUP. He understood that this was a real concern with regard to Sampson Avenue. Director Eddington noted that the City Engineer was currently working with the Chief Building Official to determine what needs to be done on Sampson Avenue, and there are concerns with some of the safety features of the road on the downhill side regarding a retaining wall that is adjacent to 41 Sampson Avenue. Until that issue is addressed, Director Eddington assumed there were concerns about taking up heavy equipment and it was a valid concern.

Responding to Commissioner Savage's question, Assistant City Attorney McLean stated that the timing for this project to move forward would not be right away because they still needed to go through the HDDR process and do other things before pulling a building permit. Ms. McLean did not recommend delaying a decision on this application based on resolution of the road issue.

Commissioner Savage stated that having reviewed this proposal a few times and visiting the site, he understood some of the challenges related to this particular lot, as well as the challenges of the neighborhood and compatibility. He believed the applicant had done a good job making some of the recommended changes. He thought the change to the garage was positive and he was comfortable with the height. Commissioner Savage believed that certain things were aesthetically possible and would enhance the compatibility and nature of the structure as it relates to cross valley views and other neighborhood compatibility questions, without being detrimental to their own objectives. Commissioner Savage stated that unless he hears something in the discussion this evening that would sway his opinion, he would support the project.

Commissioner Gross concurred with Commission Savage.

Commissioner Hontz referred to the continual mention about potential future development that has not yet been applied for or approved. However, in the same Staff report, the Staff could not speak to the scenario of future development because there is no way to anticipate what future LMC Codes would allow an applicant to do with an application. She pointed out that it could not be both ways and everyone understands that there is no way to anticipate what might occur on those properties. Commissioner Hontz took issue with the reference in terms of it possibly being part of the visual

scenario and part of massing of a certain size. She emphasized that it should not be a factor in their decision-making.

Commissioner Hontz referred to page 84 of the Staff report and the purposes of the HRL District. She believed all of her comments would build up to support why this application did not meet the purposes of the HRL District. Specifically, Letter C – Preserve the character of the historic residential character of the historical residential development in Park City; Letter E – Encourage construction of historically compatible structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods; Letter F – Establish development and review criteria for new development for new development on steep slopes which mitigate impacts to mass and scale and the environment. Commissioner Hontz believed the application in its current format did not meet statements C, E and F. She was prepared to provide examples to support her opinion.

Commissioner Hontz did not believe that any of the properties in the Matrix on page 89 of the Staff report were reviewed under the current LMC. Therefore, it was an inaccurate analysis. Commissioner Hontz was unsure why time was spent doing an analysis on homes that may or may not be built today because of Code changes. She also noted that the Matrix only included historic homes that had major renovations. There are numerous homes in close proximity on Upper Norfolk that are much smaller in size and footprint.

Commissioner Hontz read the Land Management Code language for the HRL District on page 90 of the Staff report. Section 15-2.1-6 – Development on Steep Slopes are regulated. “Development on Steep Slopes must be environmentally sensitive to hillside areas carefully planned to mitigate adverse effects on neighboring land and improvements and consistent with the Historic District Guidelines. Development, subsection (1), “Location of development needs to be designed to reduce visual and environmental impacts of its structure.” Commissioner Hontz stated that due to the shape of the lot, addressed in Criteria 1, it would be challenging to limit the visual impacts of the lot unless they only developed on one portion of it. However, moving up the hill and building from Sampson Avenue all the up to the top rear line does not reduce the visual impact. It also does not reduce or mitigate environmental impacts because they would be impacting the entire lot. For those reasons, Commissioner Hontz did not think it was a reduction to visual or environmental impacts.

Commissioner Savage asked Commissioner Hontz to clarify her statement regarding density reduction. Commissioner Hontz noted that Criteria 1 states that development is located and designed to reduce the visual and environmental impacts of the structure. They have to look at the lot to see if it is a reduction over what it could be. Commissioner Savage clarified that the reduction was over what it could be, not over what it is. He was trying to understand Commissioner Hontz’s perspective for her argument as to why it was not a reduction and from what. Commissioner Hontz replied that she would argue that it could be a more appropriate design.

Commissioner Hontz referred to Criteria 2 – Visual analysis from the across canyon view. She believed this was a great demonstration of how it is not screened and that the vegetation is not protected. It also shows how the structures take up the entire lot. The development grows as it continues up the hill.

Commissioner Hontz referred to Criteria 4 – Terracing. She noted that the Staff reports states that the project may include terraced retaining structures if necessary to regain natural grade. It further states that no terracing is proposed. Commissioner Hontz found that to be confusing because she has seen multiple places where retaining is defined as terracing because multiple levels of retaining occur on the site. She stated that at a minimum they have to acknowledge that terracing occurs on the site. She was not arguing that it should not happen and believed it needed to be done; however, it was an inaccurate statement to support something that was untrue because terracing will occur.

Commissioner Hontz referred to Criteria 5 – Building location. She read, “The site design and building footprint must coordinate with adjacent properties to maximize opportunities for open areas and preservation of natural vegetation to minimize driveway and parking access and provide variation of the front yard.” Commissioner Hontz remarked that the first part of that statement, “maximize opportunities for open areas and preservation of natural vegetation” are not supported by this current version of the application. She agreed that from the previous version, the driveway and parking area was minimized. However, based on comments during the public hearing, with a house of this size and a road you cannot park on, perhaps the parking area should not be minimized. Commissioner Hontz pointed out that this was a situation that may need three parking spaces but there was no room for it. The question was whether they wanted a less desirable design with a larger garage facing the street or impacting the neighborhood by parking on the street. She was unsure which would be worse.

Criteria 6 – Building form and Scale. “Low profile buildings that orient to the existing contours are strongly encouraged.” Commissioner Hontz was unable to say that they were looking at that in this design. In her opinion they are not low profile buildings and that they move up with the contours.

Criteria 7 – Setbacks. Commissioner Hontz recognized that this was a very challenging site based on the unusual configuration. However, challenging is not an excuse for a bigger house size that does not meet compatibility with surrounding historic structures. She thought they needed to look closer to make sure the setbacks are big enough.

Criteria 8 – Building Volume. “The Planning Director and/or Planning Commission may further limit the volume of a proposed structure to minimize its visual mass and/or to mitigate difference in the scale between and proposed structure and existing structures. Commissioner Hontz noted that the basement was adding to the volume. She thought the previous Planning Commission was very concerned about how this would look and feel on the site. She believed they would be distressed to see this application move forward in its current format and given a steep slope approval because the volume is very large above ground.

Criteria 9 – Building Height (Steep Slope). Commissioner Hontz stated that the Planning Commission could require a reduction in building height for all portions of the structure if they felt it would help mitigate some of the concerns related to size and scale. Even though the proposed height meets the zone height, it pushes the structure to look larger as it goes up the hill.

Commissioner Hontz noted that Finding of Fact #17 on page 96 supports that there is obviously terracing and retaining around the entire structure. She remarked that Finding of Fact #28 on page 97 needed to be removed because it was not pertinent to this application. Commissioner Hontz referred to Conclusion of Law #4 on page 98, which talks about the effects of any differences in use

or scale. She noted that there could not be a difference in use outside of the allowed use of this zone. If this project moves forward, Conclusion of Law #4 should be revised to say, "The affects of any difference in scale have been mitigated." Commissioner Hontz clarified that even as revised, she did not agree with the Conclusion of Law.

Commissioner Wintzer concurred with Commissioner Hontz's assessment. He noted that the Planning Commission has the right to reduce height and increase setbacks, and the reason is to better address mass and scale. Commissioner Wintzer referred to the Matrix on page 89 of the Staff report and disagreed that it represented historic structures. Commissioner Wintzer stated that 15 years ago his neighborhood wrote the HRL zone and the purpose was to create a neighborhood that people want to live in.

Commissioner Wintzer disagreed with Mr. DeGray that this project meets the General Plan. He found five areas in the General Plan that talks about reducing the mass and scale of Old Town and that new development should be a modest scale compatible with historic structures. In a survey taken, people said that new construction is threatening the mass and scale of the historic structures. Commissioner Wintzer stated that discussions about mass and scale should be about what they are trying to preserve, which is the mass and scale of the community. They are not trying to preserve mega-homes. In looking at page 141 of the Staff report, Commissioner Wintzer counted four floors in the first structure, which is not permitted by Code. He believed the first structure was connected to the second structure.

Commissioner Thomas agreed this was a difficult site with a lot of design challenges. However, he had to agree with comments made by Commissioners Hontz and Wintzer. Commissioner Thomas challenged the City's interpretation that this was not one structure because it is one single family residence. Commissioner Thomas believed the intent of the 2009 was to limit a structure to three stories. He counted five stories. He read from LMC Section 15-2.2-5, "No structure shall be erected to a height greater than 27 feet from existing grade." He reiterated previous comments that the Planning Commission has the purview to reduce the height. Commissioner Thomas further read, "Final grade must be within 4 feet of the existing grade around the periphery of the structure." With regards to the main house, Commissioner Thomas commented on the long linear window that was created to achieve two legal bedrooms that would otherwise not be legal. He would challenge the logic of putting bedrooms below grade where some had to climb up to safety and it caused him great concern.

Per the LMC, "The structure may have a maximum of three stories." Commissioner Thomas stated that in 2009 the Code was modified to count a basement as a story in the zone. Commissioner Thomas reviewed an elevation that showed a four story elevator; two stories above and two stories below grade, with beams and a walkway that physically connects one side to the other. Commissioner Thomas could not understand how the Staff could ever determine that this was not a connected continuous structure. He disagreed with the Staff interpretation and he also believed it would be questioned by the Building Department. Planner Evans clarified that the Building Department had already looked at the plans.

Commissioner Thomas was unsure how they could get over the hurdle that this was not a five story building. It is a burdensome lot but the proposed design solution was wrong in terms of number of

stories and the visual impacts on the community. Commissioner Thomas noted that he had previously requested a cross section through the garage and the elevator, and he was still waiting for it. In his opinion, this was an incomplete application. The streetscape is grossly inadequate and it was not what the Planning Commission had asked for. They wanted to see a streetscape showing the buildings and the context of the buildings next door. Commissioner Thomas believed the applicant had design hurdles to overcome, but as proposed he could not support it.

Commissioner Strachan asked if the applicant had applied for the Schneckloth exception under the conditional use. Mr. Wade replied that it was applied for and it was denied. Director Eddington noted that the applicant had been before the Planning Commissioner prior to asking for the exception. Commissioner Strachan understood that the applicant came to the Planning Commission, then applied for the exception, the exception was denied and it was again before the Planning Commission. Director Eddington explained that the exception was denied on the basis of a pending application and the need for review by the Planning Commission.

Commissioner Strachan asked if the applicant believed he needed the exception. Mr. Wade stated that it was needed in the sense that it reflects the fact that a project had already been reviewed. If they had not submitted an application for review by the Planning Commission, they could have gone to the Planning Director and requested a determination. However, because it a pending application before the Planning Commission, the Planning Director declined to strip away that review and would not grant the exception. If the Planning Commission does not approve the application, they would appeal directly to the City Council. Commissioner Strachan clarified that the exception was no longer an option for the applicant. They would either take an approval by the Planning Commission or appeal it to the City Council.

Commissioner Strachan stated that he still could not find that the dwelling volume was compatible with the surrounding structures. He thought the analysis on page 89 comparing it to existing structures was all they needed to make a finding that the dwelling volume is incompatible. Only two other structures would be larger in terms of total square footage. Commissioner Strachan agreed with Commissioner Wintzer that most of the structures on the list were non-historic structures. The compatibility analysis turns on a comparison to historic structures and not new development.

Commissioner Strachan thought the visual mass impact had not been mitigated. The difference in scale between the proposed structure and the existing structures in the surrounding area had not been mitigated as well. Commissioner Strachan did not believe the proposal could be compared to what might be built on different lots. The Code is clear that the comparison should be to existing structures. In comparing this proposal to existing structures the difference in scale was incompatible. He could not make a positive finding on that criteria in the Code.

Commissioner Hontz stated that she had read the historic minutes from December 14, 1994 on page 120 of the Staff report, to make sure she understood how they reached this point in terms of the lot, size and the thoughts of the previous Planning Commission. Commissioner Hontz thought the previous Commissioners had done a good job communicating their concern for setting a precedent for incremental buildup in the area. That was where they talked about reducing homes sizes and specifying it as a plat note. Commissioner Hontz stated that the convincing language from the minutes were key, "Commissioner Jones concurred with Commissioner Klingenstein and

remarked that the real issue is compatibility. The floor area ratios are maximum limits and often applicants believe they are allowed to build homes to the maximum size without regard to the neighborhood. He requested that the conditions of approval reiterate that the overriding criteria for house size is neighborhood compatibility in both design issues and how the home fits on the lot relative to the neighborhood.” Commissioner Hontz noted that the discussion continues as the former Commissioners tried to craft conditions of approval to support their concerns related to size, height, massing, and neighborhood compatibility. She believed this Planning Commission was continuing that discussion.

Commissioner Wintzer noted that the existing approvals were done in 1994 and did not believe any of the houses being compared were built in 1994. He believed what the City Council and the Planning Commission envisioned in 1994 was half the size of what they see today. The issue is that the community has allowed this creep and size to continue and they now realize it is not what they want.

Commissioner Savage asked if compatibility relates to back to the older period of time or to the current period. Commissioner Wintzer replied that the Code talks about compatibility with historic structures. At some point compatibility was being compared to newer structures and that was where they got off track. Somehow they needed to go back to what is directed in the Code.

Assistant City Attorney McLean read the definition of compatibility, from the definition section of the LMC, “Characteristics of different uses or designs that integrate with and relate to one another to maintain and/or enhance the context of a surrounding area or neighborhood. Elements affecting compatibility include, but are not limited to, height, scale mass and bulk of building, pedestrian and vehicular circulation, parking, landscaping and architecture, topography and environmentally sensitive areas.”

MOTION: Commissioner Wintzer made a motion to CONTINUE 30 Sampson Avenue and direct the Staff and the applicant to come back with findings that the building is not a three-story and to address the incompatible mass, scale and size. They also need to provide a streetscape that would allow the Planning Commission to look at compatibility and compare it with the adjacent buildings rather than a picture take from across the canyon.

Commissioner Strachan thought the Planning Commission need to decide if they wanted to continue this item with direction to Staff to remedy the stated issues, or if they wanted to deny it.

Assistant City Attorney McLean explained that typically when the Planning Commission does not adopt the Findings suggested by Staff, they could vote to deny based on their discussion and the Staff would draft findings for denial for ratification to make sure they would reflect all the pertinent comments given this evening. Commissioner Savage understood that Ms. McLean was suggesting that the Planning Commission either approve or deny this evening. Ms. McLean answered yes. Commissioner Gross clarified that if the Planning Commission votes to deny, the applicant to appeal their decision to the City Council. Ms. McLean replied that this was correct; however, the City Council would not hear the appeal until the Findings were ratified with the reasons for denial.

Commissioner Wintzer withdrew his motion.

Commissioner Strachan felt that even if they continued to another meeting, the Commissioner would still have the same concerns and issues. Commissioner Gross agreed. Commissioner Hontz noted that some information has been requested that could either further illustrate how this did not meet Code, or demonstrate changes that might moves the project closer to Code.

Mr. Budge stated that the applicant would like a decision this evening.

Commissioner Strachan pointed out that if the Planning Commission denies the application and it is appealed to the City Council, the City Council could overturn the Planning Commission decision. If they continue it with direction to the applicant to decrease the building volume and make a three-story structure, and other issues; the applicant could reject the continuation and request a denial.

Ms. McLean pointed out that the applicant had just requested a decision. She explained why the timing would be the same with either a continuation or a denial.

Commissioner Strachan asked if the plans presented this evening was the design the applicant wanted to take to the City Council. Mr. Jorgensen stated that if the Planning Commission wanted to put remove the detached portion that they were calling two stories, it would require long terracing and other things that he was unsure were even possible at that grade.

Mr. DeGray stated that based on the issues raised by the Planning Commission, they had been through an inter-department Staff review, including the Legal and Building Departments, and they had received no feedback saying that they were not in compliance with the number of building levels represented in the plan. He understood that the Planning Commission had a different interpretation.

Mr. Wade wanted to satisfy the concerns expressed by the Planning Commission, but given the topography of the lot and the fact that this was an approved use, he did not believe they could make additional changes to satisfy the Planning Commission.

**MOTION:** Commissioner Savage moved to APPROVE the Steep Slope Conditional Use Permit at 30 Sampson Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report.

The motion died for lack of a second.

**MOTION:** Commissioner Savage motion to DENY the request for a Steep Slope CUP at 30 Sampson Avenue. Commissioner Strachan seconded the motion with the direction to Staff to prepare proposed Findings of Fact and Conclusions of Law for Denial based on the discussion this evening.

**VOTE:** The motion passed unanimously.

Planning Commission Meeting  
April 10, 2013  
Page 24

The Park City Planning Commission meeting adjourned at 7:50 p.m.

Approved by Planning Commission: \_\_\_\_\_



July 3, 2013  
Michael and Laurie Jorgensen  
3648 Wrangler Way  
Park City, Utah 84098

NOTICE OF CITY COUNCIL ACTION (SHOULD SAY PLANNING COMMISSION )

Project Description: Steep Slope Conditional Use Permit  
Project Numbers: PL-12-01487  
Project Address: 30 Sampson Avenue  
Date of Final Action: June 26, 2013

Action Taken

On April 10, 2013, the Planning Commission held a regularly scheduled Public Hearing to consider the approval of a Steep Slope Conditional Use Permit (SS-CUP) application for 30 Sampson Avenue. During that same meeting, the Planning Commission voted to deny the requested SS-CUP and directed Staff to draft findings of fact in support of the decision to deny the request based on the evidence and reasoning put forth by the Planning Commission during the same meeting. The Planning Commission met on the June 26 2013, and voted unanimously to ratify the following Findings of Facts and Conclusions of Law:

Findings of Fact:

1. The property is located at 30 Sampson Avenue.
2. The property is within the Historic Residential (HRL) District.
3. The property is Lot 3 of the Millsite Reservation Supplemental Plat, which was recorded in 1995.
4. The Lot area is 7,088 square feet, the minimum lot size in the HRL district is 3,570 square feet.
5. The subject property is very steep ranging from flat areas near Sampson Avenue and climbing uphill with slopes reaching between 30-40% before reaching the main body of the lot.
6. The proposal consisted of a single family dwelling of 4,585 square feet which includes a 453 square foot detached garage, a 350 square foot garage entry and a 106 square foot access tunnel which is located below ground.
7. Plat notes indicate the maximum square footage allowed for this lot is 3,000 square feet with an additional allowance of 400 square foot for a garage.

8. A 1998 letter from the (then) Community Development Director Richard Lewis, determined that the 3,000 square foot maximum only applied to the above ground portion of the future dwelling, and that basement areas would not count against the 3,000 square foot maximum so long as they were constructed fully below the finished grade. This letter was recorded on the title of the property.
9. The Land Management Code has been amended numerous times since 1998.
10. An overall building footprint of 2,272 square feet was proposed. Under the current LMC, the maximum allowed footprint is 2,355.5 square feet, based on the total lot area.
11. The applicant submitted a visual analysis, and renderings showing a contextual analysis of visual impacts.
12. No streetscape analysis was presented to the Planning Commission as requested by the Planning Commission.
13. The cross canyon view contains a back drop of both structures, a two (2) story home up the hill with a two (2) story garage building in front.
14. The proposed design incorporates a driveway from Sampson Avenue on the top slope of the street and provides two (2) legal off-street parking spaces, which meets the minimum parking requirement.
15. The detached garage/elevator building is set back fifteen feet (15') from the front property line, and the main portion of the building (the habitable portion of the overall dwelling) is located approximately 77 feet from the street.
16. At their closest points, the two buildings are approximately nine (9) feet apart from each other and are attached by a deck with footings, which attaches the elevator building to the upper (second) floor of the main house.
17. The proposed height of the main building (home) and the elevator building is twenty seven feet (27').
18. 2,996 square feet of the total 4,041 square feet of building space is above ground.
19. The building locations and the proposed building designs both climb up the hill from Sampson Avenue. The proposal utilizes virtually the entire lot rather than concentrating the structure on one portion of the lot. The structures by their placement, massing and height are not located on the lot in a manner that reduces the visual impact.
20. The lot has been deemed to have eight (8) different sides, and thus a Planning Director determination for setbacks has previously been determined and calculated as outlined within the analysis section of the report.
21. The proposed home attempts to maximize the minimum setbacks on each of the property lines. The proposed garage building maximizes the setbacks on the front and on the south property line.
22. There is no proposed screening of the home from Sampson Avenue due to the fact that the home climbs up the hill from the right-of-way, and that there is proposed parking and driveway area in front of the garage. There is no proposed screening of the home between the elevator building and the home due to the fact that the applicant has proposed an attached deck and patio connecting the two structures, thus minimizing any screening opportunities with exception of adjacent properties that are already screened by existing "Gamble Oaks" and other existing vegetation.

23. The scope of the project requires extensive retention of the hillside, and no substantial mitigation has been proposed to reduce the detrimental impacts to the hillside and the design is not appropriate to the topography of the site. The revised design provided by the applicant since the original inception shows substantial retention and retaining walls around the south property line and substantial retention and retaining walls around the garage building on the north property line.
24. The visual analysis cannot include what could potentially be built around the proposed home as doing so would be purely hypothetical.
25. The lot analysis presented by staff for Sampson Avenue and adjacent properties to the subject property are irrelevant for comparison because the study only takes into consideration lot size and home size, and does not take into consideration the height, setbacks, mass and scale of existing historic homes located on adjacent property, or nearby properties, including those located within the same District on King Road, thus making the analysis dissimilar for compliance with the LMC and General Plan.
26. The Existing Home Size Analysis for neighboring properties in the Staff Report does not reflect current LMC requirements, and most of the homes in the area were built prior to the current code requirements and considerations, and thus should not be used when looking at comparable home sizes consider that some of the homes in the analysis could not be built under the current LMC requirements.
27. There are existing historic homes as listed in the Historic Sites Inventory near the proposed site on Sampson Avenue, including the adjacent 40 Sampson Avenue, (approximately 1,700 square feet), 41 Sampson which is across the street from the subject property (approximately 900 square feet) as well as nearby 60 Sampson Avenue and 115 Sampson Avenue.
28. The proposal does not meet the purpose statement of the Historic Residential-Low (HRL) district, specifically §15-2.1-1(C) *preserve the character of Historic residential Development in Park City.*
29. The proposal does not meet purpose statement (LMC §15-2.1-1)(E) *encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods.*
30. The proposal does not meet purpose statement (LMC §15-2.1-1)(F) *establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.*
31. The proposed development has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(1) "Location of Development" due to the fact that the building locations and the proposed building designs do not reduce visual and environmental impacts because both climb up the hill from Sampson Avenue, and because the proposal utilizes virtually the entire lot rather than concentrating the structure on one portion of the lot. The structures are not located on the lot in a manner that reduces the visual impact.
32. The proposed development has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(2) "Visual Analysis" because the proposal does not provide screening, vegetation protection, or other design opportunities that could have been incorporated into the design to help mitigate these issues.

33. The proposed development has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(5) "Building Location" due to the fact that the proposal does not coordinate with adjacent properties to maximize opportunities for open areas and preservation of natural vegetation to minimize parking areas.
34. The proposal has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(6) "Building Form and Scale" because the applicant is not proposing "smaller components" nor are they proposing low-profile buildings that orient with the existing contours. Both buildings are large and are not broken into the smaller components as encouraged by this sub-section of the LMC.
35. The proposed development has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(7) "Setbacks" due to the fact that the proposed setbacks only help to maximize the building site and are not compatible with other historic structures in the neighborhood.
36. LMC §15-2.1-6(B)(7) requires that the variation in setbacks will be a function of the site constraints, proposed building scales and setbacks from adjacent structures, and the proposed buildings do not consider the site constraints and thus cannot be substantially mitigated.
37. The proposed home has impacts that cannot be substantially mitigated with respect to LMC §15-2.1-6(B)(8) "Dwelling Volume" due to the fact that the proposed basement adds significant volume to the building, which was an issue that was raised by the City Council in the minutes of the 1994 City Council meeting to approve the Subdivision that created the subject lot.
38. The proposed home is not compatible with existing historic homes in the neighborhood with respect to height, setbacks, mass or scale, and the proposed home and garage buildings offer no substantial mitigation measures necessary to show compatibility with the nearby existing structures.
39. Height within the HRL District is limited to three (3) stories, and the proposal is for two buildings a main structure (home) and a garage with an elevator building that connects to the home by a patio and a deck. The two buildings appear by their placement to be a five (5) story building. Connecting the buildings in this manner does not meet the intent of the LMC §15-2.1-5(B).
40. The basement proposed does not meet the criteria for not having it count against the overall building size maximum of 3,000 square feet as noted on the 1995 Millsite Supplemental Plat, because there are windows and a window well in the basement, making the basement not fully below grade, which was the criteria as described in the Plat note for the property, as stated in Finding of Fact #8.
41. The visual mass of the proposed dwellings have not been mitigated by this home design.
42. Additional parking beyond the minimum two (2) required spaces might be necessary due to the location of the home on a sub-standard street that offers no off-site parking.
43. This Ratification was continued from the April 24, 2013 Planning Commission meeting.

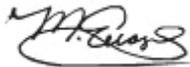
**Conclusions of Law:**

1. The proposed development does not meet the "Purpose" of the HRL District, specifically with respect to LMC §15-2.1-1(C)(E) and (F).
2. The proposed does not meet the criteria for development on steep slopes, specifically Land Management Code §15-2.1-6(B)(1-2), and (6-9).
3. The proposal is not historically compatible with other buildings within the HRL District, or areas nearby with respect to setbacks, height, mass or scale.
4. The proposed development does not meet the intent of the maximum height requirement restriction of no more than three (3) stories as required in LMC §15-2.1-5(B).
5. The reasonably anticipated detrimental effects of the proposed home and garage buildings on a steep slope cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with the applicable standards specifically LMC §15-2.1-6(B)(1-2) and (6-9).

**Order:** The Steep Slope Conditional Use Permit for the proposed new single-family dwelling 30 Sampson Avenue is hereby denied for the reason specified within the Findings of Fact and Conclusions of Law listed herein.

The action taken by the Planning Commission can be appealed to the City Council if said appeal is filed within ten (10) days of this final action letter. If you have any questions or concerns regarding this letter, please do not hesitate to call me at 435-615-5063.

Sincerely,



Mathew Evans  
Senior Planner

Park City Planning Department  
PO Box 1480  
Park City, UT 84060

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PL-13-01988

July 12, 2013

### VIA HAND DELIVERY

Park City City Council  
445 Marsac Avenue  
Park City, UT 84060

Re: Appeal of Planning Commission's Denial of Steep Slope Conditional Use Permit  
Application for 30 Sampson Avenue

Dear Council Members:

This firm represents Michael and Laurie Jorgensen (the "Jorgensens") and this letter is their appeal of the Planning Commission's denial of their application to construct a new home at 30 Sampson Avenue ("30 Sampson") pursuant to a steep slope conditional use permit ("Steep Slope CUP").

### Background

The City Council created the very steep lot known as 30 Sampson in 1995 when it approved Craig Schneckloth plat entitled "30, 40, and 50 Sampson Avenue Amended Plat," which was also referred to as the Millsite Supplemental Plat Amended Subdivision ("Amended Plat"). A copy of the Amended Plat is attached as Exhibit A. The 30 Sampson property is labeled as Lot 3 on the Amended Plat and is located in the Historic Residential ("HRL") zoning district. As the Amended Plat shows, Lot 3 totals approximately 7,089 square feet and is of a highly irregular shape. It climbs the mountain towards the west of Sampson Avenue and has slopes in excess of 30%.

When the City Council approved the Amended Plat there was a great deal of analysis and discussion about the suitability of Lot 1 and Lot 3 for a home (Lot 2 already had the Schneckloth's home located on it). As a result of this analysis, the City Council determined the maximum appropriate size for each of the lots on the Amended Plat. In the case of Lot 3 (30 Sampson), the City Council placed a notation that the "maximum size for residential structures" on the lot is 3,000 square feet. This "maximum size" does not include a garage so long as the garage is no larger than 400 feet and does not include area located within a basement.

Park City City Council  
July 11, 2013  
Page 2

Section 15-2.1-6(C) of the LMC, enacted by the City Council, exempts Lot 3 (30 Sampson) from Planning Commission steep slope review because of prior approval of the Amended Plat and related plat notes and conditions of approval. On February 14, 2012, the Jorgensen's filed a completed Steep Slope CUP Application ("Application"). The Application sought approval for construction of a new single family dwelling, including a detached garage ("Project"). When they filed their Application, they did not invoke the Steep Slope CUP exception because they were not aware of it. Instead, they decided to proceed with their Steep Slope CUP.

From the outset, the Jorgensens have worked closely with staff on their application. They solicited and obtained input on the appropriate setbacks for this location and carefully considered the dimensional restrictions that apply to this lot. They also analyzed the relative sizes of the structures surrounding the lot and the development potential of those other lots. After considerable work and careful evaluating of all available feedback, the Jorgensens readied themselves for their first of several Planning Commission meetings.

The first Planning Commission hearing was held August 22, 2012. At the hearing, the staff presented a Staff Report that found that the Project complied with the LMC's requirements for building footprint size; building square foot maximum; setbacks; height; number of stories; final grade; vertical articulation; roof pitch; and parking. *Id.* at 205—206. The Staff Report carefully evaluated each of the 9 criteria required for a Steep Slope CUP.<sup>1</sup> Importantly, the August 22<sup>nd</sup> Staff Report found that in analyzing each of the 9 criteria that there were "no unmitigated impacts." A copy of the August 22<sup>nd</sup> report is attached as Exhibit B.

Notwithstanding the careful analysis and determination by the staff that the Application complied with the 9 criteria that the City Council had set for evaluating a Steep Slope CUP, the Planning Commission refused to approve the Application. Instead, they voted to continue the Application for the purpose of reviewing the definition of "stories."

More than 3 months later, on December 12, 2012, the Planning Commission conducted its next meeting on the Application at a work session. The Work Session Report addressed the definition of "stories." The report observed that the proposed home has three stories, including a basement level, a main level, and a top level. The Project also includes a detached garage and an ADA accessible elevator<sup>2</sup>. The Work Session Report concluded that, because the garage is detached, the proposed home does not violate the three-story height restriction. WORK

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<sup>1</sup> Section 15-2.1-6 of the LMC provides that the Application "shall be subject to the following criteria": (1) Location of Development; (2) Visual Analysis; (3) Access; (4) Terracing; (5) Building Location; (6) Building Form and Scale; (7) Setbacks; (8) Dwelling Volume; and (9) Building Height.

<sup>2</sup> An ADA accessible elevator is critical to the Jorgensens given a relationship they have with an individual in a wheelchair.

Park City City Council  
July 11, 2013  
Page 3

SESSION REPORT, 30 SAMPSON AVENUE 56—57 (December 12, 2012), a copy is attached as Exhibit C.

Notwithstanding the staff's prior careful work, and its determination that the Project met all story requirements for the HRL zone, the Planning Commission again delayed any action and did not schedule a time to approve the Application. Rather, it identified new issues, including a complaints that the home's façade is not adequately historic, the basement has safety egress features that make it not a basement and the potential issue of snow shedding.

After four more months, and a request from the Jorgensens for a decision, the Planning Commission placed a revised Application on its April 10<sup>th</sup>, 2013 agenda. The Application had changed from the one first submitted by the Jorgensens. Notably, the Jorgensens redesigned the garage from a side-by-side two door configuration to a one door, tandem configuration. This reduced the mass and scale of the garage as observed by passersby on Sampson Avenue. The redesign complemented existing design features. Specifically, the garage is detached and completely subordinate to the main home. Because the garage is detached and the main home is located on the upper portion of the lot, passersby on Sampson Avenue will not likely be able to see the proposed home. A copy of the drawing showing the revised Application's elevations is attached as Exhibit D.

Even though the Jorgensens had revised their plans in a way that reduced the visual impacts to those on Sampson, some on the Planning Commission continued to express concerns with the Application. All of the concerns, however, were essentially visual in that some on the Planning Commission expressed distaste for the mass, scale and the impacts created by having a home on a residential lot in a neighborhood. Importantly, of the 2 who spoke at the hearing, their concern focused on the Sampson Avenue road, not with having a home at 30 Sampson. Nevertheless, the Planning Commission voted to deny the Application for 30 Sampson.

The Planning Commission requested that Planning Staff prepare Findings of Fact and Conclusions of Law consistent with its April 10th discussion and vote. The Planning Commission ratified the Findings of Fact and Conclusions of Law denying the Application at a June 28, 2013 meeting. Generally, the Planning Commission found that the Application doesn't meet the purposes of the HRL Zone; the Project is not compatible with existing historic homes with respect to height, setbacks, mass, or scale; the design doesn't reduce visual impacts; and placement of the Project doesn't maximize open space.

### **Analysis**

The Planning Commission improperly denied the Application. First, it violated the Land Use, Development, and Management Act ("LUDMA") by failing to identify conditions to

Park City City Council  
July 11, 2013  
Page 4

mitigate anticipated impacts from the Project. Second, the Planning Commission lacked substantial evidence to support denial of the Application. Third, it relied on unconstitutionally vague standards when it denied the Application. Finally, the Planning Commission improperly relied on criteria outside the LMC to deny the Application.

First, the Planning Commission violated LUDMA because it did not attempt to impose conditions that would mitigate the anticipated impacts of the Project. Section 10-9a-507(2)(a) of the Utah Code requires that “[a] conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.” (Emphasis added).

The 1995 Amended Plat approved a single-family residence at 30 Sampson. Based on approval of the Amended Plat, the Jorgensens submitted the Application. In the August 22nd Staff Report, Planning Staff determined that the Project complied with all applicable numeric criteria, including requirements for building footprint size; building square foot maximum; setbacks; height; number of stories; final grade; vertical articulation; roof pitch; and parking. PLANNING COMMISSION STAFF REPORT, 30 SAMPSON AVENUE 205—206 (Aug. 22, 2012). Moreover, the Staff Report concluded that there were no unmitigated impacts associated with the nine criteria used to evaluate the Steep Slope CUP. The Planning Commission expressed progressively more concern about the Project over the course of hearings and work sessions held in August 2012, December 2012, and April 2012. In June 2013, more than one year after submission of the Application, the Planning Commission denied the Application.

The Planning Commission made no attempt to impose conditions on the Project. In doing so, the Planning Commission functionally determined that no single family home may be constructed at 30 Sampson. This conflicts with the 1995 Amended Plat in which the City Council approved 30 Sampson as a lot appropriate for a single-family home. Moreover, it ignores the Jorgensens’ efforts to modify the Application to meet expressed concerns. For instance, in an effort to reduce the mass and scale of the garage, the Jorgensens’ redesigned their garage from a side-by-side two-door configuration to a one-door tandem garage. PLANNING COMMISSION STAFF REPORT, 30 SAMPSON AVENUE 82 (Apr. 10, 2013). Most importantly, however, the decision violated LUDMA’s mandate that conditions be proposed or imposed that would mitigate the anticipated detrimental impacts of the Project. UTAH CODE ANN. § 10-9a-507(2)(a); ADVISORY OPINION NO. 117, OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN \*7 (October 15, 2012); *Trisko v. City of Waite Park*, 566 N.W.2d 349, 357 (Minn. Ct. App. 1997) (“Evidence that a municipality denied a conditional use permit without suggesting or imposing conditions that would bring the proposed use into compliance may support a conclusion that the denial was arbitrary.”).

Park City City Council  
July 11, 2013  
Page 5

Second, the Planning Commission lacked substantial evidence to support denial of the Application. A land use authority's decision must be supported by substantial evidence. The Planning Commission must have substantial evidence to support its decision. UTAH CODE ANN. § 10-9a-801(3)(c). Substantial evidence exists when "a reasonable mind might accept as adequate the evidence supporting the decision." *Long v. Ethics and Discipline Comm. of the Utah Supreme Ct.*, 2011 UT 32, ¶ 50, 256 P.3d 206.

The Planning Commission found that the height, setbacks, volume, mass, and scale of the Project caused impacts that could not be substantially mitigated. But the Planning Commission lacked substantial evidence to support this determination. To the contrary, Planning Staff determined that the Project complied with the numeric criteria for floor area, building footprint, setbacks, and height. PLANNING COMMISSION STAFF REPORT, 30 SAMPSON AVENUE 86—88 (Apr. 10, 2013). Planning Director Thomas Eddington assigned the minimum setbacks. *Id.* at 86. Chief Building Official Chad Root determined that the proposed basement met the International Building Code's definition of basement. PLANNING COMMISSION STAFF REPORT, 30 SAMPSON AVENUE 157 (June 28, 2013). Because it qualified as a basement, the basement was permitted in addition to the maximum residence size, as explained in Director Lewis's 1998 letter. Finally, Mr. Root determined that the proposed home and garage were not connected and, as a result, did not exceed the maximum three story height. *Id.*

The Planning Commission also lacked substantial evidence for its finding that the Project is not compatible with existing historic homes. The Planning Commission discounted an existing home size analysis prepared by Planning Staff because the analysis did not consider height, setbacks, mass, scale, or existing LMC requirements. But the analysis provides a useful basis for comparing the Project to existing homes. The proposed floor area for the Project is 4,585 square feet. 60 Sampson, an existing historic home has a total size of approximately 4,246 square feet on a lot smaller than 30 Sampson's lot. 16 Sampson was recently approved for construction of a home of approximately 4,141 square feet. Moreover, two homes located on Norfolk in the HR-1 District sit adjacent to 30 Sampson. Both of these homes are larger than the Project. These data show that 30 Sampson is comparable to several neighboring properties, including adjoining properties. The Planning Commission did not offer quantitative height, setback, mass, and scale data that show the Project is not compatible with existing homes.

In addition to its other findings, the Planning Commission found that the Project failed to maximize open space, would cause visual impacts, and did not provide screening. When it approved the Amended Plat, the Planning Commission understood that 30 Sampson was an irregular lot. The majority of buildable area is located on the rear of the lot, where the proposed home is located. PLANNING COMMISSION STAFF REPORT, 30 SAMPSON AVENUE 92 (Apr. 10, 2013). The Project covers only 31% of the overall lot. *Id.* at 91. Thus, the Project preserves open space to the extent possible on this irregular and very steep lot. The Project

Park City City Council  
July 11, 2013  
Page 6

minimizes visual impacts because it is broken into smaller pieces that step with the grade. *Id.* at 93. Notably, the proposed garage is detached and completely subordinate to the proposed home. *Id.* Lastly, the Jorgensens' plan to screen the Project by planting 40 new trees on the lot. *Id.* at 91. In summary, the Planning Commission lacked substantial evidence to support its findings that the Project is not compatible with existing homes and that it will have detrimental visual impacts.

Third, the provisions the Planning Commission relies upon to analyze compatibility with existing historic homes are unconstitutionally vague because they provide no guidance for the Jorgensens to prepare designs and an application. An ordinance is unconstitutionally vague when it either "(1) fail[s] to give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly, or (2) [is] written in a way that encourages arbitrary and discriminatory enforcement." *Bushco v. Utah State Tax Comm'n*, 2009 UT 73, ¶ 55, 225 P.3d 153 (internal quotation marks omitted).

The Planning Commission found that the Project does not contribute to the character and scale of the HRL District. In particular, it found that the Project is not compatible with the height, setbacks, mass, or scale of existing historic homes. The Planning Commission appears to have based its decision, in part, on the purpose statements for the HRL District. LMC § 15-2.1-1(C), (E)-(F). The Planning Commission also appears to have relied on language permitting it to minimize the visual mass or mitigate differences in scale between existing and proposed structures. LMC § 15-2.1-6(B)(8)-(9).

The Project complies with the quantitative criteria in the LMC for floor area, building footprint, setbacks, and height. PLANNING COMMISSION STAFF REPORT, 30 SAMPSON AVENUE 86—88 (Apr. 10, 2013). The provisions relied on by the Planning Commission fail to provide guidance to applicants and design professionals as to when compliance with quantitative criteria will not be adequate to satisfy Steep Slope CUP requirements. Moreover, there is no guidance as to what additional criteria may exist and how they will be applied. Indeed, in this case, the Planning Commission's decision making appears to be driven by subjective standards developed on an ad hoc basis. Because they provide no meaningful guidance to the Jorgensens, the provisions relied upon by the Planning Commission are unconstitutionally vague.

Finally, the Planning Commission impermissibly relied on grounds outside the LMC to deny the Application. UTAH CODE ANN. § 10-9a-801(3)(d); *Mann Media, Inc. v. Randolph Cnty. Planning Bd.*, 565 S.E.2d 9, 17 (N.C. 2002) ("The [Planning Commission] . . . is without power to deny a permit on grounds not expressly stated in the ordinance and it must employ specific statutory criteria which are relevant." (internal quotation marks omitted)).

Park City City Council  
July 11, 2013  
Page 7

The Planning Commission found that the Project maximizes the minimum setbacks; violates the intent of the three-story requirement, and may require more than two parking spaces. There is no dispute that 30 Sampson falls within the minimum setbacks established for the lot. The LMC defines a setback as “[t]he required minimum distance between a Building Pad and the closest of the following: (A) Property Line; (B) platted Street; or (C) existing curb or edge of a Street.” LMC § 15-15-1.234. Based on this definition, the building pad for the Project may permissibly extend to the minimum setback line. Pursuant to section 15-2.1-5(A) of the LMC, “[a] Structure may have a maximum of three (3) stories.” According to Mr. Root, the proposed home and garage are separate structures. Both are less than three stories. Thus, the proposed home and garage satisfy the story requirement. The LMC provides no additional criteria regarding the intent of the story requirement. The LMC requires two parking spaces per Single Family Dwelling unit; it provides no basis for requiring additional parking spaces. LMC § 15-3-6(A). The Project has the required two parking spaces. The Planning Commission may not use bases outside the LMC to impose conditions on 30 Sampson or to deny the Application.

The Jorgensens filed the Application in February 2012. The Planning Commission denied the Application without proposing any conditions to mitigate anticipated detrimental impacts of the Project. In doing so, the Planning Commission violated LUDMA, acted without substantial evidence, applied unconstitutionally vague provisions of the LMC, and relied on impermissible, uncodified grounds for its decision. Further, in the absence of conditions, the Jorgensens may not build a home at 30 Sampson. This outcome contradicts the Amended Plat, which expressly permitted a single-family residence at 30 Sampson.

Should you have any questions, please feel free to contact me.

Very truly yours,

Snell & Wilmer



Wade R. Budge

WRB



GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

## State of Utah Department of Commerce

### OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

FRANCINE A. GIANI  
Executive Director

BRENT N. BATEMAN  
Lead Attorney, Office of the Property Rights Ombudsman

## ADVISORY OPINION

Advisory Opinion Requested by:	Michael and Laurie Jorgensen By Wade Budge, Attorney for the Jorgensens
Local Government Entity:	Park City
Applicant for the Land Use Approval:	Michael and Laurie Jorgensen
Type of Property:	Residential
Date of this Advisory Opinion:	March 28, 2014
Opinion Authored By:	Elliot R. Lawrence Office of the Property Rights Ombudsman

### Issues

What is the extent and obligation of a land use authority's evaluation of conditional use permit applications?

### Summary of Advisory Opinion

Conditional uses are valuable aspects of a local zoning ordinance, and must be administered as part of the overall zoning scheme, respecting the ordinance's design standards and approvals previously granted by the local government. Conditional uses involve four steps: Designating the use as conditional; adopting standards to guide decision makers; identifying detrimental impacts associated with a particular use; and evaluation of conditions to mitigate the use's impacts. Before a conditional use permit may be denied, specific detrimental impacts must be identified, and conditions considered. The denial is justified only if the impacts cannot be substantially mitigated by reasonable conditions. Any decision made by a land use authority as part of the conditional use evaluation process must be supported by substantial evidence.

### Review

A Request for an Advisory Opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of UTAH CODE § 13-43-205.

An advisory opinion is meant to provide an early review, before any duty to exhaust administrative remedies, of significant land use questions so that those involved in a land use application or other specific land use disputes can have an independent review of an issue. It is hoped that such a review can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts.

A Request for an Advisory Opinion was received from Wade R. Budge, Attorney for Michael and Laurie Jorgensen, on August 9, 2013. A copy of that request was sent via certified mail to Janet M. Scott, City Recorder for Park City, at 445 Marsac Ave., Park City, Utah. According to the return receipt, the City received the Request on August 19, 2013.

## Evidence

The following documents and information with relevance to the issue involved in this Advisory Opinion were reviewed prior to its completion:

1. Request for an Advisory Opinion, with attachments, submitted by Wade R. Budge, attorney for Michael and Laurie Jorgensen, received by the Office of the Property Rights Ombudsman on August 9, 2013.
2. Response submitted on behalf of Park City, by Polly Samuels-McLean, Assistant City Attorney for Park City, received on December 2, 2014.
3. Reply submitted by Mr. Budge, received on January 17, 2014.
4. Reply submitted by Ms. McLean, dated March 5, 2014.
5. Reply submitted by Mr. Budge, dated March 18, 2014.
6. Section 15-2.1-6 of the Park City Municipal Code.

## Background

Michael and Laurie Jorgensen own a lot in Park City, located at 30 Sampson Avenue ("30 Sampson"). The lot was created by a subdivision plat approved in 1995, along with two other lots along the same road. The lot has an "irregular hour-glass" shape: The south boundary, adjoining another lot, is essentially straight, but the north boundary "zig-zags" at sharp angles, creating a wedge-shaped section on the east (adjoining Sampson Avenue) and a "suarish" area on the west, with a narrow area in the middle of the lot.<sup>1</sup> The total area of the lot is 7,089 square feet, but the narrowing in the middle limits the area available for a larger building such as a home. The upper, or western portion, is larger than the lower, or eastern portion.<sup>2</sup> The slopes on the lower portion leading the to the middle appear to be in excess of 30%, but area immediately

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<sup>1</sup> The property boundary with the parcel to the north forms a right angle jutting into the middle of 30 Sampson. The western portion is slightly larger than the eastern. The City's staff noted that due to the sharp angles, the lot actually has eight sides.

<sup>2</sup> The western portion could also be deemed the "northwest" portion, as that part of the lot veers to the northwest. The lower portion is basically oriented on an east-west axis.

adjacent to the street is fairly level. The upper portion levels off somewhat, with the slope appearing to be between 20-30%. The lot has about 48 feet of frontage on Sampson Avenue.

Despite the slope and unusual configuration of 30 Sampson, the owners are confident that a home may be constructed. The lot is located within an "HRL" (Historic Residential-Low Density) zone district. The City Code requires that buildings larger than 1,000 square feet which are located on steep slopes obtain a conditional use permit (a "Steep Slope CUP").<sup>3</sup> The Steep Slope CUP process addresses several criteria associated with the development, including size and mass of the building, height, location on the lot, and access.

In the HRL zone, the allowable building footprint size is a function of the lot size. Larger lots allow larger building footprints.<sup>4</sup> According to the City, the maximum building footprint allowed on 30 Sampson is 2,355.5 square feet.<sup>5</sup> Because of the unusual configuration, the City Planner determined the setbacks, as provided in § 15-4-17 of the City Code. Each of the lot's eight sides was assigned a setback.

The subdivision plat that created 30 Sampson in 1995 includes a note stating that 3,000 square feet is the "maximum size[] for residential structures" on the lot.<sup>6</sup> The City determined that it would honor the maximum size approved by that plat. In March of 1998, the City issued a letter, stating that a basement could be included with a home on the lot, provided it met the requirements of the City Code ("March 1998 Letter").<sup>7</sup> Importantly, the area of a basement would not count towards the 3,000 square foot maximum for the home.<sup>8</sup> The March 1998 Letter was recorded with the Summit County Recorder's Office. The City acknowledges this Letter, and the development rights that it grants.

In February of 2012, the Jorgensens designed a home for 30 Sampson, and applied for a Steep Slope CUP, because a portion of their development is located on the steep portion constituting the middle of their lot.<sup>9</sup> The proposed home is located on the western (or upper) portion of the lot (approximately 77 feet from Sampson Avenue), with a garage building located at street level. The garage building extends into the slope face, and includes a below-ground entry room and an elevator leading to the home on the upper portion. The elevator was connected to a deck or bridge leading to the main entrance of the home.<sup>10</sup> A parking area and stairway next to the garage were also shown in the home's drawings. The final design considered by the City was about

<sup>3</sup> PARK CITY MUNICIPAL CODE, § 15-2.1-6.

<sup>4</sup> PARK CITY MUNICIPAL CODE, § 15-2.1-3. A building's "footprint" is the area it occupies, regardless of height. It is not the total floor area of a building.

<sup>5</sup> "Findings of Fact and Conclusions of Law, June 26, 2013," Park City Planning Commission (Attached as Exhibit A), Finding No. 10.

<sup>6</sup> The subdivision created three lots, including 30 Sampson. One of the lots is 6,956 s.f., and the other is 11,444 s.f. The smaller lot also has a 3,000 s.f. limit for structures, while the larger may build up to 3,500 s.f.

<sup>7</sup> At the time of the March 1998 Letter, a basement was required to have four walls at least 80% underground. An outside entrance from the basement was not to be visible from a public street.

<sup>8</sup> In other words, only the "above ground" portion of the home would be counted against the maximum area.

<sup>9</sup> It appears that the City's planning staff determined that a Steep Slope CUP was necessary. *But see* Analysis Section II, *infra*.

<sup>10</sup> Other than an outside stairway, the elevator would be the only access from the garage to the home. The Jorgensens included the elevator to make the home fully accessible.

4,041 total square feet, with 2,996 square feet above ground.<sup>11</sup> The overall footprint for the project was 2,272 square feet.<sup>12</sup>

After working with the City's staff for nearly six months, the matter was brought to the Park City Planning Commission on August 22, 2012. At that meeting, the staff recommended approval of the Steep Slope CUP, stating that there were no unmitigated impacts associated with the proposed home. The staff report concluded that all of the criteria required by the City's Code supported the permit.<sup>13</sup> Despite the staff's recommendation, the Planning Commission continued the application, requesting clarification on the definition of "story" in the City Code.<sup>14</sup>

In December of 2012, the Planning Commission reviewed the application at a work meeting. At that meeting, the staff reported that the Jorgensen's home met the City's height and story restrictions. The Planning Commission again delayed a decision on the application, citing new issues about the proposed home. Specifically, the commission identified complaints that the home did not suit the historic nature of the area, issues about whether the basement area should be included in the total, and concerns about snow shedding.

In April of 2013, after a request from the Jorgensens, the Commission again considered the application. The Jorgensens had made changes to their home's design, in order to address the concerns raised at the December commission meeting. In particular, the garage was changed to lessen its apparent size and visual impact from Sampson Avenue.<sup>15</sup>

At the April meeting, it appears that members of the public expressed concerns about parking on Sampson Avenue, but said nothing about the home itself. During discussion, members of the Planning Commission expressed dislike for the size and visual impacts of the home. The Commission denied the Steep Slope CUP application, concluding that the home was too large for the neighborhood, did not satisfy the "intent" of the HRL zone, was not compatible with the historic development of the area, and that the reasonably anticipated detrimental impacts of the home could not be mitigated through reasonable conditions. On June 26, 2013, the Commission approved its Findings of Fact and Conclusions of Law, formally denying the Jorgensen's application.

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<sup>11</sup> Findings of Fact and Conclusions of Law, Finding No. 18. It appears from the design information as well as the City's conclusions that the garage and elevator constituted one building, and the home was a separate building. The City code exempts a garage area up to 400 s.f. from the calculation of total area.

<sup>12</sup> Findings of Fact and Conclusions of Law, Finding No. 10.

<sup>13</sup> Section 15-2.1-6(B) requires evaluation of nine criteria: (1) Location of Development; (2) Visual Analysis; (3) Access; (4) Terracing; (5) Building Location; (6) Building Form and Scale; (7) Setbacks; (8) Dwelling Volume; and (9) Building Height. The staff report also concluded that the proposed home also met the City's requirements, such as height, setback, etc.

<sup>14</sup> Section 15-2.1-5 limits structures to three stories, with a maximum height of 27 feet (above grade). The City staff concluded Jorgensen's home has three stories: a basement, a main floor, and an upper level. The maximum height is below 27 feet.

<sup>15</sup> As stated above, the final design had a building footprint of 2,272 s.f. Based on the analysis by the City's staff, the proposal has a total above-ground floor area of 2,996 s.f. The basement floor area was 1,189 s.f. The total area included 509 square feet of the garage/elevator building, because the first 400 s.f. of the garage was excluded from the total floor area.

In its final order, the Commission made 43 Findings of Fact, including finding that the proposed home did not meet the criteria for a Steep Slope CUP. Specifically, the Commission found that the home was not compatible with existing historic homes in the neighborhood “with respect to height, setbacks, mass or scale . . .”<sup>16</sup> It also found that the home did not meet the purpose of the HRL zone, specifically paragraphs (C), (E), and (F) of § 15-2.1-1.<sup>17</sup> A copy of the Findings of Fact is attached as Exhibit A.<sup>18</sup>

## Analysis

### I. The Planning Commission Does Not Have Discretion to Ignore Approvals Previously Granted by the City or to Reinterpret City Ordinances.

The Planning Commission abused its discretion when it concluded that the Jorgensen’s home did not meet the “purposes” of the HRL zone, and by ignoring terms in the City Code. It is true that interpretation of ordinances by a local planning board enjoys “some level of non-binding deference” *Fox v. Park City*, 2008 UT 85 ¶ 11, 200 P.3d 182, 185. However, the Planning Commission’s deference is limited, and its authority must operate within the terms of the City Code. The Commission does not have discretion to ignore an ordinance or approvals already made regarding the Jorgensen’s property.

#### A. A 3,000 Square Foot Home May Potentially Be Built on the Lot.

Because the maximum size for a home on 30 Sampson has already been approved by the City, the Steep Slope CUP could not be denied based on an opinion that the home does not meet the purposes of the HRL zone. In its Findings of Fact, the Planning Commission determined that the Jorgensen’s home did not “meet the purpose” of the HRL zone in part because the home did not “preserve the character of Historic residential development in Park City” (Finding No. 28) and because it did not “encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District . . .” (Finding No. 29).<sup>19</sup> The basis for these findings is evidently because the Planning Commission felt that the proposed home is too large for the City’s Historic District.

The Planning Commission does not have discretion to decide that the home is too large for the HRL zone, because the maximum size has already been approved by the City. When the 30 Sampson lot was created in 1995, the City determined that a 3,000 square foot home could be built.<sup>20</sup> A few years later, the City agreed that the area of a basement level would not be counted

<sup>16</sup> Findings of Fact and Conclusions of Law, June 26, 2013, Finding No. 38.

<sup>17</sup> That sections lists the purpose of the HRL zone, which includes “preserving historic character” (paragraph (C)); “encourage historically compatible structures” (paragraph (E)); and “review criteria for development on steep slopes” (paragraph (F)).

<sup>18</sup> The document is entitled “Notice of City Council Action” although it is the Findings of Fact and Conclusions of Law for the Planning Commission.

<sup>19</sup> The Findings quote paragraphs (E) and (F) of § 15-2.1-1 of the Park City Code, which lists the purposes of the HRL zone.

<sup>20</sup> Along the same lines, the City also has approved the size of a building’s “footprint,” which is a function of the lot area. The size of a building’s footprint acceptable on 30 Sampson has already been approved by the City, and so the

against the total area of a home on that lot. Since the building size has already been approved, the Planning Commission cannot dictate the allowable size of a building simply because it feels that the “purpose” of the HRL zone is better served with smaller homes. In essence, Park City has already determined that on 30 Sampson, a home of 3,000 square feet suitably preserves the character of historic residential development and contributes to the character and scale of the historic district.<sup>21</sup> The Planning Commission does not have discretion to change what the City Council has already approved.

Furthermore, the Jorgensens have a vested right for a home up to 3,000 square feet in floor area. The 1995 subdivision plat includes the specific approval for a home of that size on 30 Sampson. An approved subdivision plat grants vested rights to the owner. “Some courts have recognized that the filing of a subdivision plat gives a vested right to individual lot owners as to the lots’ size . . .” *Stucker v. Summit County*, 870 P.2d 283, 288 (Utah Ct. App. 1994).<sup>22</sup> If an owner is entitled to a vested right in the size and configuration of a lot created by a subdivision, then an owner may claim vested rights in other development or design criteria approved on a subdivision plat. This would include specific building pads or setbacks, and building sizes. Since the City approved a 3,000 square foot home on 30 Sampson as part of the 1995 subdivision plat, the Jorgensens may claim the vested right to build a home up to that size.<sup>23</sup>

#### *B. The Jorgensens May Build Within the Approved Setbacks*

In a similar vein, the Planning Commission abused its discretion by denying the CUP based on its position that the home “attempts to maximize the minimum setbacks.” (See Findings of Fact, Finding No. 21).<sup>24</sup> Because of the unusual configuration of the lot, the minimum setbacks for 30 Sampson have been determined by the Park City Planning Director, as provided in the City Code.<sup>25</sup> The buildings (the garage and home) are placed within the required setbacks, and there is no issue that the setbacks need to be adjusted.

Because the proposed home conforms to the established setbacks, the Planning Commission does not have discretion to deny approval simply because the home’s plan “maximizes” those setbacks. The Jorgensens have the right to build within the approved building pad. The buildable area of the lot, as defined by the required setbacks, has been decided by the City. As long as the building complies with the setbacks, the Planning Commission does not have discretion to deny the Steep Slope CUP because of an opinion that the proposed building is “too close” to what has

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Planning Commission cannot presume the authority to determine what size building best suits the “purpose” of the HRL zone.

<sup>21</sup> This is further reinforced by the fact that the proposed home and garage would be a permitted use if the lot had a slope less than 30%, and no Steep Slope CUP were required.

<sup>22</sup> See also *Wood v. North Salt Lake*, 15 Utah 2d 245, 390 P.2d 858 (1964) (Property owners had vested right in lot sizes created by subdivision plat, even though a subsequent zoning ordinance required larger lots)

<sup>23</sup> Even if development criteria on a subdivision plat granted a vested right, development would still need to comply with other zoning requirements, including the Steep Slope CUP, if required by the City Code.

<sup>24</sup> The Planning Commission’s application of §15-2.1.6(B)(7) of the City Code (Setbacks as part of the CUP analysis) is discussed below.

<sup>25</sup> See PARK CITY MUNICIPAL CODE, §15-4-17 (Setback Requirements for Unusual Lot Configurations). The buildable area, or “building pad” is “the Lot Area minus required Front, Rear and Side Yard Areas.” *Id.*, § 15-2.1-3(C).

already been approved.<sup>26</sup> Otherwise, the Planning Commission would be overruling the City's determination by effectively increasing the setbacks, which would be an abuse of its discretion.

*C. The Planning Commission Does Not Have Discretion to Ignore the Established Meanings of Terms Used in the City Code.*

The Planning Commission must follow the terms and definitions adopted by the City, and does not have discretion to adopt its own definitions. "A municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances." UTAH CODE ANN. § 10-9a-509(2). If a term is defined in either the City's ordinances or the State Code, the Planning Commission is bound to follow that definition, and does not have discretion to change the established meaning of the term.

The terms of the City's ordinances are interpreted according to the plain language used.

When interpreting statutes, [the] primary objective is to give effect to the [legislative] intent. To discern . . . intent, . . . look first to the statute's plain language. . . . [P]resume that the [legislative body] used each word advisedly and read each term according to its ordinary and accepted meaning. Additionally, . . . read the plain language of the statute as a whole and interpret its provisions in harmony with other statutes in the same chapter. When the plain meaning of the statute can be discerned from its language, no other interpretive tools are needed.

*Selman v. Box Elder County*, 2011 UT 18, ¶ 18, 251 P.3d 804, 807 (citations and alterations from original omitted). In addition, "since zoning ordinances are in derogation of a property owner's use of land . . . any ordinance prohibiting a proposed use should be strictly construed in favor of allowing the use." *Carrier v. Salt Lake County*, 2004 UT 98, ¶ 30, 104 P.3d 1208, 1216. If a term is not defined by ordinance or statute, the ordinary meaning and usage of the word is used.

1. The Jorgensen Home Includes a Basement.

The City's planning staff concluded that the basement proposed for the Jorgensen home satisfied the definition stated in the March 1998 Letter, and so the basement area was not included when calculating the total floor area allowed.<sup>27</sup> Defying this analysis, along with the provisions of the City Code and the actions of the City Council, the Planning Commission decided that the

<sup>26</sup> The Planning Commission apparently objects to having the building located within the area the City has approved for building (*ie*, the building pad, or the area within the established setbacks). Admittedly, the home building occupies nearly all of the buildable area on the upper portion of the lot. Although the Planning Commission may prefer greater setbacks, it does not have discretion to deny the Steep Slope CUP based on the amount of buildable area being used. As discussed below, the Steep Slope CUP ordinance grants the Planning Commission a limited amount of discretion over setbacks as part of the conditional use analysis. That discretion, however, only involves setback adjustments in limited circumstances, and is not authority to question how a property owner uses the area approved for building.

<sup>27</sup> Excluding the basement floor area meant that the "above ground" portion of the home had 2,996 s.f., just under the 3,000 s.f. limit.

basement level of the Jorgensen home did not meet its conception of a basement, and so it concluded that the area of that level was to be included in the total area of the home.<sup>28</sup>

The March 1998 Letter stated that the area of a basement level would not be included in the total area allowed on the lot, if all four walls of the basement were at least 80% underground.<sup>29</sup> The Planning Commission misquoted that definition, stating that a basement must be “constructed *fully* below the finished grade.” Findings of Fact, Finding No. 8 (emphasis added).<sup>30</sup> Moreover, the City Code currently defines “basement” as “[a]ny floor level below the First Story in a Building.” PARK CITY MUNICIPAL CODE, § 15-15-4(1.25) (Definition of “basement”).<sup>31</sup> The Planning Commission decided that the basement was not “fully below the finished grade” because it had windows and a light well (or window well).<sup>32</sup> Therefore, according to the Planning Commission, it was not eligible for floor area exemption provided by both the March 1998 Letter and the City Code.<sup>33</sup>

Using the City Code’s definition, the Jorgensen home has a basement. It is a level below the first story. The City Code does not mention windows—as long as the level is below the first story, it could presumably have as many windows as the homeowner wants. In addition, windows are required by the building code. The March 1998 Letter requires that all four walls of a basement be at least 80% underground. It also does not mention windows, but it is reasonable that the requirement could be fulfilled if the walls of window wells were considered as part of the basement walls.<sup>34</sup> The March 1998 Letter allows an exterior door leading to a basement (including a garage door), so it would seem that windows are also a possibility.<sup>35</sup>

<sup>28</sup> See Findings of Fact and Conclusions of Law, Finding No. 40.

<sup>29</sup> According to the March 1998 Letter, this was the definition of basement from the City Code. That letter provided that the area of a basement would not be included in the total floor area for a home. See Findings of Fact and Conclusions of Law, Finding No. 8. The design drawings submitted for this Opinion show that the basement walls are completely below ground, including the wall for the “light well.”

<sup>30</sup> See also Findings of Fact, Finding No. 40.

<sup>31</sup> “First Story” means “[t]he lowest Story in a Building provided the floor level is not more than four feet (4’) below Final Grade for more than fifty percent (50%) of the perimeter. PARK CITY MUNICIPAL CODE, § 15-15-4(1.103). The Jorgensen’s plans show that only the basement of their home is below grade, and the so the first level would qualify as a “First Story.”

<sup>32</sup> The windows are required by the building code, and provide light and emergency access. A portion of one basement wall includes three windows with a “light well,” which is basically a sunken window well extending across all three windows (about 20 feet total) allowing light and access. The outside wall for the light well is connected to the basement wall and extends a few feet from the main structure. There was evidently no analysis or measurement showing that the basement was less than 80% below ground, or that the basement was not below the First Story of a building.

<sup>33</sup> See *id.*, § 15-15-4(1.105) “Basement and Crawl Space Areas below Final Grade are not considered Floor Area.”

<sup>34</sup> It is also worth noting that most people would agree that a basement includes windows and even exterior doors.

<sup>35</sup> The March 1998 Letter states that an exterior door, including a garage door, may not be visible from a public street. Thus, it was at least considered possible that a basement with a garage door could still have 80% of its walls underground. Since windows are smaller than garage doors, a basement could also feasibly include windows. The HRL zone anticipates window wells and light wells, allowing them to extend into side and rear yard setbacks, and excluding the depth of window wells from defining existing grade. See *id.*, §§ 15-2.1-3(G)(3) and (I)(3), and 15-2.1-5.

The Planning Commission abused its discretion by not allowing the basement area to be exempted from the total floor area allowed for the Jorgensen home. Their conclusions are not supported by any reasonable interpretation of the City Code or the March 1998 Letter, particularly given the building code's requirement that windows be included. The conclusions reached by the Planning Commission place homeowners in a "catch-22" situation: A basement must have windows; but if it has windows, the Planning Commission would no longer consider it a basement.<sup>36</sup> This approach also nullifies the exemption granted by the City, depriving the Jorgensens of a valuable property right.<sup>37</sup> Finally, since the terms of the area exemption must be construed in favor of the property owner, there is no reasonable basis to conclude that the basement in the Jorgensen home does not meet the definitions of both the City Code and the March 1998 Letter.

## 2. The Home Meets the Height Requirements of the HRL Zone.

The proposed home satisfies the height requirements of the HRL zone. "No structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade." PARK CITY MUNICIPAL CODE, § 15-2.1-5. According to the materials submitted for this Opinion, the Jorgensen home, as well as the garage and elevator building, are both at or below 27 feet in height, measured from the existing grade. In addition, a structure may not have more than three stories within the 27-foot maximum.<sup>38</sup> For the purpose of defining maximum height, a basement level is considered a story, according to the City Code. *Id.*, § 15-2.1-5(A).<sup>39</sup>

The Planning Commission focused on the height and the number of stories in the two structures proposed for 30 Sampson, eventually concluding that "[t]he two buildings appear by their placement to be a five (5) story building." Findings of Fact, Finding No. 39. However, both the home and the garage/elevator buildings satisfy the City's height requirement. The maximum height is 27 feet above the existing grade, regardless of how tall the building "appears" to be, or its location on a hillside. The Planning Commission does not have discretion to alter the definition found in the City Code.

The City Code does not define "story," but it does define how to measure a story.<sup>40</sup> The ordinary understanding of the term "story" is "each of the stage or portions one above another of which a building consists; a room or set of rooms on one floor or level." OXFORD ENGLISH DICTIONARY, Vol. XVI (2<sup>nd</sup> ed. 1989) p. 789.<sup>41</sup> Using this as the plain language meaning of the term, the two

<sup>36</sup> "Catch-22" refers to a circumstance or situation that presents a dilemma because of mutually conflicting or dependent conditions. See THE OXFORD DICTIONARY AND THESAURUS, AMERICAN EDITION (1996), p. 219.

<sup>37</sup> The Planning Commission's conclusion also does not solve their concerns over the size of the structure. If the basement were eliminated, the structure would still have the same dimensions above ground—eliminating the basement would only reduce the total floor area, not the overall size and mass of the structure.

<sup>38</sup> The City Code allows additional height for an elevator building. See *id.*, § 15-2.1-5(3). It appears, however, that no extra height was requested for the Jorgensen's elevator.

<sup>39</sup> A basement would count as a "story," but only the portion of a structure above ground would be measured for the maximum height.

<sup>40</sup> *Id.*, § 15-15-32(1.251) "STORY. The vertical measurement between floors taken from finish floor to finish floor."

<sup>41</sup> "Story" usually refers to the horizontal divisions of a building. A building's stories usually include space between floors to house electrical wiring, plumbing, etc.

structures comply with § 15-2.1-5. The home has three levels, including a basement. The garage/elevator building has only one story.<sup>42</sup> The Planning Commission must abide by the plain language of the City ordinance, and does not have discretion to adopt a new interpretation not supported by the City Code. Since both buildings are less than 27 feet high and have no more than three stories, they both satisfy the required height limitation.

## **II. The City's Steep Slope CUP Ordinance Only Applies to Substantial Structures Actually Located on Steep Slopes.**

The Steep Slope CUP ordinance only applies to substantial structures actually located on a steep slope, and may not be extended to regulate structures which are not placed on a slope. "A Conditional Use permit is required for any Structure in excess of one thousand square feet (1000 sq. ft.) if said Structure and/or Access is *located* upon any existing Slope of thirty percent (30%) or greater." PARK CITY MUNICIPAL CODE, § 15-2.1-6(B) (emphasis added).<sup>43</sup> In other words, the Planning Commission only has authority to add additional conditions on a structure which is actually placed on an area with a slope greater than 30%, if the structure exceeds 1,000 square feet. It does not apply to structures placed on more level areas of a lot, even if other portions of the lot have a steep slope, or to buildings which are smaller than 1,000 square feet.<sup>44</sup>

It appears, based on the materials submitted for this Opinion, that only the lower portion of 30 Sampson has an area where the slope exceeds 30%.<sup>45</sup> The upper portion is more level.<sup>46</sup> If this is so, then the only portion of the lot subject to the Steep Slope CUP is whatever portion has a slope greater than 30%, and which has a substantial structure placed upon it. Structures on more level areas do not require conditional use approval.

The Jorgensen's proposal consists of two buildings: The home on the upper portion, and the garage/elevator structure on the lower portion. The City's review treated the two buildings as separate. The Planning Commission agreed that the home is a separate structure from the garage.

<sup>42</sup> There was no indication that the elevator shaft would comprise two stories. At any rate, since the garage is a separate structure, it may have as many as three stories, so long as the height does not exceed 27 feet.

<sup>43</sup> Note that the ordinance language only applies to a structure located on an existing slope greater than 30%, in contrast, the ordinance would not apply simply when a structure is built on a level portion of a lot that also includes a steep slope.

<sup>44</sup> This interpretation is based on the plain language of § 15-2.1-6(B). In addition, the provision that a zoning ordinance must be narrowly construed in favor of the property owner demands this conclusion.

<sup>45</sup> See Findings of Fact, Finding No. 5: "The subject property is very steep ranging from flat areas near Sampson Avenue and climbing uphill with slopes reaching between 30-40% before reaching the main body of the lot." This is, of course, not a final conclusion that the slope on the upper portion is less than 30%, but is consistent with the information submitted for this Opinion. The City maintains that its staff concluded that a Steep Slope CUP is required, and that the Jorgensens failed to appeal that determination.

<sup>46</sup> This observation is based upon topographic data listed on the plans submitted for this Opinion. The lower portion of 30 Sampson has a small level area along the street, and the elevation rises sharply in the middle, where the lot narrows. The garage and elevator structure requires excavation into this slope face. The upper portion appears to be more level (the data on the plans suggests that the slope is less than 30%). According to the plans, the home structure will be entirely above ground (except for the basement), without extensive excavation into a slope face. A more thorough analysis is needed to accurately ascertain the slope of the upper portion.

See Findings of Fact, Finding Nos. 6, 13, 15, 16, 17, 22, 34 and 39. In addition, the conclusion that the buildings are separate is supported by the facts. Both the home and the garage have separate foundations, and are not connected, except by a walkway. The garage and elevator could be removed without changing the home, and the home could be altered without any changes to the garage. Simply providing access via a deck or bridge does not unite the two separate buildings.

If the slope on the upper portion of the lot is less than 30%, then the Planning Commission does not have authority to impose any additional conditions on a structure placed on that portion. If the home is located on an area with a steeper slope, then the Steep Slope CUP ordinance would apply. The garage/elevator building is located on a steep slope, and requires excavation into the slope face. However, the garage and elevator are less than 1,000 square feet, so a Steep Slope CUP should not be required.<sup>47</sup>

In short, § 15-2.1-6 of the City Code requires a Steep Slope CUP not merely because a lot has a slope greater than 30%, but because a substantial structure is proposed to be built on that slope. That section must be construed narrowly, in favor of allowing the use and enjoyment of property. The City may not require a conditional use permit except where one is mandated by the City Code. Despite a desire to improve the City, the Planning Commission does not have discretion to exceed the authority granted to it.

According to the materials submitted for this Opinion, the Jorgensens object to being subject to the Steep Slope CUP for the same reasons. The City maintains that its planning staff decided that the CUP was necessary, and that the Jorgensens cannot object at this point. It is not clear if the Jorgensens raised their objections before the Planning Commission, however. If it is determined that the Steep Slope CUP ordinance does not apply to the Jorgensen's proposal, the Planning Commission's decision would possibly be void as an unauthorized act, even if its actions were supported by substantial evidence.<sup>48</sup>

### **III. Before it May Deny a Conditional Use, the City Must Show the Detrimental Impacts of the Use, and the Conditions Which Were Considered to Mitigate Those Impacts.**

In order to justify denying an application for a conditional use permit, the City must establish the detrimental impacts of the development, and show by substantial evidence that reasonable conditions would not mitigate those impacts. Conditional uses are governed by the Land Use,

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<sup>47</sup> See Findings of Fact, Finding 6. "The proposal . . . includes a 453 square foot detached garage, a 350 square foot garage entry and a 106 square foot access tunnel which is located below ground" The areas listed total 909 square feet, but 400 s.f. is excluded from the total floor area.

<sup>48</sup> A zoning decision may be overturned if it is arbitrary, capricious, or illegal. UTAH CODE ANN. § 10-9a-801(3). A decision is arbitrary and capricious if it is not supported by substantial evidence. *Bradley v. Payson City Corp.*, 2003 UT 16, ¶ 10, 70 P.3d 47, 51. It is illegal if the action taken was not authorized, or if it violated a statute or ordinance. UTAH CODE ANN. § 10-9a-801(3)(d).

Development, and Management Act (or “LUDMA”), found in Title 10, chapter 9a of the Utah Code.<sup>49</sup> A “‘Conditional use’ means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.” UTAH CODE ANN. § 10-9a-103(5). Section 10-9a-507 provides the framework for consideration of conditional use permits:

(1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

(2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

*Id.*, § 10-9a-507. The Utah Code thus anticipates four specific steps: First, a use must be designated as “conditional” in a land use ordinance; Second, standards must be adopted to guide evaluation of a conditional use; Third, reasonably anticipated detrimental impacts associated with the particular circumstances being evaluated must be identified by a land use authority; and Fourth, conditions must be proposed to mitigate those detrimental impacts. The use may be denied only if the proposed conditions cannot substantially mitigate the detrimental impacts.<sup>50</sup>

#### *A. Standards for Conditional Use Evaluation*

In § 15-2.1-6, the City adopted some standards to govern evaluation of a Steep Slope CUP. “Development on Steep Slopes must be environmentally sensitive to hillside Areas, carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the Historic District Design Guidelines.” PARK CITY MUNICIPAL CODE, § 15-2.1-6. The section covers nine specific criteria: Location of Development, Visual Analysis, Access, Terracing, Building Location, Building Form and Scale, Setbacks, Dwelling Volume, and Building Height. *See id.*, § 15-2.1-6(B).

The Utah Code does not define “applicable standards,” nor does it explain the nature or extent expected for such standards that would be acceptable for conditional use analysis. Several years

<sup>49</sup> UTAH CODE ANN. §§ 10-9a-101 to -803 (applicable to municipalities); *see also id.*, §§ 17-27a-101 to -803 (applicable to counties). This Opinion will cite to the provisions in Title 10, because they apply to Park City.

<sup>50</sup> As has already been discussed, Park City has designated that a substantial structure located on a steep slope is a conditional use, thus fulfilling the first step.

ago, however, the Utah Supreme Court deferred decisions on standards to a local jurisdiction's judgment:

While it is true that a zoning ordinance must set some ascertainable boundaries on the exercise of discretion by a zoning authority, such boundaries are not required to be unduly rigid or detailed. A generalized exposition of overall standards or policy goals suffices to direct the inquiry and deliberation of the zoning authority, and to permit appellate review of its decision.

*Thurston v. Cache County*, 626 P.2d 440, 443-44 (Utah 1981). Thus, even though the standards listed in § 15-2.1-6 basically consist of fairly broad policy statements, they are nevertheless sufficient for conditional use analysis. The Planning Commission's discretion, however, is limited to these standards.

For example, § 15-2.1-6(B)(7) establishes standards to evaluate the setbacks of a structure subject to a Steep Slope CUP. The Planning Commission may vary setbacks only to "minimize the creation of a 'wall effect' along the Street front and/or the Rear Lot Line." PARK CITY MUNICIPAL CODE, § 15-2.1-6(B)(7). Unless it is shown by substantial evidence that there is "wall effect" on the front or rear of the lot, the Planning Commission may not consider a variation in setbacks, and it may not deny the Steep Slope CUP on the basis that there is some other "detrimental impact" associated with setbacks.

Moreover, the Steep Slope CUP, like any conditional use, is not to be evaluated in a vacuum, but as part of an overall zoning scheme. The Steep Slope CUP ordinance not only requires evaluation according to the standards listed, but also requires consideration "consistent with the Historic District Design Guidelines." Therefore, the CUP must also take into consideration the requirements and guidelines of the Historic District Zone. The design guidelines, allowed uses, and vested rights established as part of a zoning ordinance must factor into a conditional use evaluation.<sup>51</sup> Otherwise, a conditional use regulation becomes "spot zoning" on individual parcels, rather than an aspect of a community's comprehensive zoning regulation.<sup>52</sup>

<sup>51</sup> This approach to conditional uses helps resolve the dichotomy between individual property rights and a community's legitimate interest in promoting the public welfare. Uses are designated as conditional because of unique aspects (including location) that warrant a more careful evaluation than that provided by generally applicable zoning regulations. If a locality makes a use conditional, the property owner has the right to carry out that use, by complying with the reasonable conditions meant to mitigate detrimental impacts. The owner may also rely on the design and use standards adopted in a zoning ordinance, and also on approvals previously granted. Conditional use evaluation does not negate other aspects of a zoning ordinance, but is an individualized consideration of an allowed use, consistent with the terms of a community's overall zoning scheme.

<sup>52</sup> "[S]pot zoning occurs when a municipality either grants a special privilege or imposes a restriction on a particular small property that is not otherwise granted or imposed on surrounding properties in the larger area. *Tolman v. Logan City*, 2007 UT App 260, ¶ 15, 167 P.3d 489, 495. This does not mean that a local government may never identify a use as conditional, only that the conditional use permit must recognize the overall zoning regulation for the area. Conditional use evaluation is not an excuse to fashion a completely new zoning scheme applicable to a single property.

Thus, although the City Code requires conditional use evaluation for a structure located on a steep slope, that evaluation does not stand alone, and is not an excuse to ignore other zoning provisions. Instead, the Steep Slope CUP constitutes an individualized evaluation of the impacts made by a structure on a steep slope. That evaluation must consider the overall zoning scheme for the area, and must recognize the zoning and design standards as well as approvals previously granted by the City.

Finally, conditional use analysis must include consideration of the specific setting and circumstances of the proposed use. The possible impacts and potential conditions are inextricably tied to the location of the proposed use, and a determination of impacts and conditions must be specific to the unique aspects of the location.<sup>53</sup> Generalized statements about the use will not suffice. In the Jorgensen's situation, the lot has a very unusual configuration and a steep slope, which limits its usable area. Any design evaluation affecting 30 Sampson, including consideration of a conditional use permit, must take into account the specific needs and limitations of that parcel and the circumstances of the surrounding area as well as the provisions of the HRL zone.

#### *B. Identifying Detrimental Impacts*

In order to grant or deny a conditional use permit, and impose conditions on the use, a local government must identify the reasonably anticipated detrimental impacts associated with that specific use. This follows from the language of the Utah Code, which provides that a conditional use may be approved with conditions to mitigate the detrimental impacts, but denied only if the impacts cannot be mitigated by reasonable conditions.<sup>54</sup> In order to determine what conditions may be imposed—and whether they will be effective—the use's detrimental impacts must first be identified.

In order to justify additional conditions, the use's impacts must not only be identified, but shown to be potentially detrimental to the municipality, neighboring properties, or nearby land uses. The Steep Slope CUP ordinance focuses on two distinct areas: Protection of hillside environments, and mitigation of "adverse effects on neighboring land and improvements." *Id.*, § 15-2.1-6. This implies that before conditions may be imposed, it must be shown that a structure on a steep slope would have negative effects on nearby properties or to the hillside's environment. It is not necessary that actual injury be shown, but the detrimental impacts must nevertheless be connected to some distinct adverse effect on the use and enjoyment of nearby properties or an effect on an environmental concern. In other words, there must be a "nexus," or a link between

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<sup>53</sup> See UTAH CODE ANN. § 10-9a-103(5) (A use may be designated conditional because of its potential impacts on neighboring properties or land uses).

<sup>54</sup> *Id.*, § 10-9a-507(2) and (3).

the use and a potential negative effect. No detrimental impacts may be established without substantial evidence of a connection to a negative effect.

The reasonably anticipated detrimental impacts must be identified specifically for each particular use in each particular location. It is not sufficient to cite general conclusions about the use.<sup>55</sup> Detrimental impacts, like all aspects of a conditional use, must be established by substantial evidence.<sup>56</sup> Since the municipality is claiming the need for additional conditions to mitigate a use's detrimental impacts, the municipality has the burden of identifying the specific detrimental impacts.

The Planning Commission's Findings of Fact and Conclusions of Law repeatedly state that the Jorgensen's home has "impacts that cannot be substantially mitigated." However, there is little discussion showing what detrimental impacts were considered, or how they were established. The Commission worked through seven of the nine subsections in the Steep Slope CUP ordinance, finding that the Jorgensen home has impacts that cannot be mitigated.<sup>57</sup>

**a. Subsection (1): Location of Development.**

In Findings of Fact Number 31, the Commission found that the Jorgensen home "has impacts that cannot be substantially mitigated with respect to LMC § 15-2.1-6(B)(1) 'Location of Development . . .'"<sup>58</sup> The Commission noted that the proposed buildings "climb up the hill" and "utilize[] virtually the entire lot."<sup>59</sup> The buildings "are not located on the lot in a manner that reduces the visual impact." These are generalized objections to the proposal, but the Finding does not show that the proposed buildings cause or may cause adverse effects on neighboring properties, or the hillside environment. In short, the Planning Commission did not establish that the location of the Jorgensen home would be

<sup>55</sup> Uses are designated as conditional because of potential impacts on the municipality, neighboring properties or neighboring land uses. Therefore, it must be shown that each specific use has impacts that detrimentally affect the municipality, neighboring property owners, or nearby land uses. Any reliable and relevant information about a use may serve as evidence of the use's impact; but, that information must be considered along with the specific situation being evaluated, and the impacts determined individually for the each use. Generalized information is not by itself sufficient justification to determine detrimental impacts.

<sup>56</sup> "A municipality's land use decision concerning the granting or denial of a conditional use permit is arbitrary and capricious only if it is not supported by substantial evidence." *Wadsworth v. West Jordan City*, 2000 UT App 49, ¶ 9, 999 P.2d 1240, 1242 (citations and alterations omitted). Substantial evidence is "that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a conclusion." *Bradley*, 2003 UT 16, ¶ 15, 70 P.3d at 52 (citation omitted).

<sup>57</sup> The Planning Commission's analysis does not address subsections (3), "Access" or (4) "Terracing." Evidently, there were no significant issues stemming from those aspects.

<sup>58</sup> "LMC" means the "Land Management Code," part of the Park City Municipal Code. The standard guiding criterion (1) of the Steep Slope CUP ordinance states that "[d]evelopment is located and designed to reduce visual and environmental impacts of the Structure." PARK CITY MUNICIPAL CODE, § 15-2.1-6(B)(1).

<sup>59</sup> As has been discussed, the proposed buildings are situated within the building pad (or setbacks) approved by the City. Since a property owner is entitled to use as much of an approved building pad as desired, the amount of the buildable area taken up by a building footprint is, by itself, not a detrimental impact.

associated with any detrimental impacts. It also did not include the design guidelines of the Historic District in its analysis.

**b. Subsection (2): Visual Analysis.**

The Planning Commission next found that the proposed home “has impacts that cannot be substantially mitigated” based on the language of § 15-2.1.6(B)(2) “Visual Analysis.” See Findings of Fact, Finding Number 32. The Commission determined that the proposal did not include “screening, vegetation protection, or other design opportunities” that could have mitigated visual issues. However, the Commission’s finding does not demonstrate any detrimental impacts on nearby properties or the hillside environment resulting from the proposed home. Instead, it concludes that the proposal does not include conditions to mitigate the unspecified impacts.

The subsection actually requires the applicant to provide a visual analysis, to identify potential impacts and the “potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities” PARK CITY MUNICIPAL CODE, § 15-2.1-6(B)(2)(b). The language of the subsection thus calls for information needed to properly address these specific factors, and does not provide a standard guiding the type of conditions that could be imposed.<sup>60</sup>

**c. Subsection (5): Building Location.**

Turning to subsection (5), “Building Location,” the Commission again found that the home has impacts that could not be mitigated, without identifying the specific adverse effects associated with the proposal.<sup>61</sup> Subsection (5) calls for coordination with adjoining properties to “maximize opportunities for open Areas and the preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.” *Id.*, § 15-2.1-6(B)(5). The Commission cited this language, and concluded that impacts could not be mitigated. However, there was no analysis showing how much open space would be desired, the amount of vegetation that ought to be preserved, or the acceptable size of parking areas; nor was there a showing of a negative effect on adjacent properties associated with those factors.<sup>62</sup>

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<sup>60</sup> The Utah Code requires that conditional uses be analyzed according to standards. See UTAH CODE ANN. § 10-9a-507. Subsection (2) requires analysis of a few visual aspects, but “determining impacts” and “identifying potential conditions” are basically what constitutes conditional use evaluation, so that language cannot be considered as suitably directing the inquiry and deliberation of the Planning Commission. See *Thurston v. Cache County*, 626 P.2d 440, 443-44 (Utah 1981).

<sup>61</sup> Findings of Fact, Finding No. 33.

<sup>62</sup> Like the Visual Analysis required by Subsection (2), the language of Subsection (5) requires “coordination” with adjacent properties, but does not provide standards to direct the Planning Commission’s decision-making.

**d. Subsection (6): Building Form and Scale.**

Subsection (6) focuses on the form and scale of the building, and encourages low-profile buildings and smaller components rather than a single building. Again, the Planning Commission cited the language of Subsection (6), and concluded that unidentified impacts could not be mitigated. The language of the subsection suggests possible actions (low-profile homes or small components) that could be taken when a proposed building is “orient[ed] against the Lot’s existing contours,” but these are the potential conditions, not the impacts which would justify denying the Steep Slope CUP.<sup>63</sup>

In addition, the City’s planning staff concluded that the home and garage are oriented with existing contours, and that significant portions of both buildings are below ground, reducing the profile of the buildings.<sup>64</sup> Although the Planning Commission is not required to adopt the recommendations of the City Staff, it must accept the staff’s factual representations and interpretations of the proposed building. If the staff determines that the home and garage are oriented to the existing slope, the Planning Commission must abide by that conclusion. If the buildings are oriented with existing slopes, then the Commission cannot find that there are detrimental impacts stemming from the form and scale of the buildings.

**e. Subsection (7): Setbacks**

According to the City code, the setbacks for a structure subject to a Steep Slope CUP may be increased, to minimize a “wall effect” along a street front or the rear of a lot. *Id.*, § 15-2.1-6(B)(7). If there is no wall effect created by a structure, no increase in the setbacks may be required. In its analysis, the City’s staff concluded that there are no “wall effects” on either the front or rear yards. The staff’s conclusions are supported by the drawings and plans included in the materials submitted for this Opinion. The garage/elevator building is set back several feet from the street, and the home is situated several feet from the rear property line.

Nevertheless, the Planning Commission found that the Jorgensen’s home had impacts that could not be mitigated which related to the building’s setbacks. The Commission’s findings ignore any perceived “wall effect” and are based on the amount of the building

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<sup>63</sup> This is also an example of how the specific conditions and limitations of the property should be included in the analysis. Given the limited amount of usable space on 30 Sampson, it is unclear how breaking the buildings into smaller components could feasibly make a difference in the overall impact of the development.

<sup>64</sup> The Staff’s analysis stated that “[t]he top floor of the home walks out to the existing grade of the top of the lot, and the main floor walks out to the existing downhill side of the lot.” In addition, approximately 1/3 of the home is below ground, which lowers the profile of the building.

pad occupied by the two structures.<sup>65</sup> The Planning Commission exceeded its authority with regards to Subsection (7). Setbacks may be increased only to mitigate a “wall effect,” not because the Commission feels that too much of an approved building pad is being used.

Furthermore, the Commission exceeded its discretion by misapplying a portion of Subsection (7). If an increase in setbacks is proposed, “[t]he Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.” *Id.* This language limits discretion over setback changes, but the Planning Commission turned that language on its head, making it the basis for a finding that the home has impacts that cannot be mitigated. *See Findings of Fact, Finding Number 36.*<sup>66</sup> This distortion of the ordinance’s language cannot reasonably support the Planning Commission’s findings regarding setbacks.

**f. Subsection (8): Dwelling Volume.**

Subsection (8) focuses on the volume of a structure subject to a Steep Slope CUP. The volume or mass of a structure may be reduced “to minimize its visual mass and/or mitigate differences in scale between a proposed Structure and existing Structures.” The Planning Commission found that the basement “add[ed] significant volume to the building . . .” *Findings of Fact, Finding Number 37.* There was no discussion of why the basement level constituted a detrimental impact, or how it negatively affected nearby properties.

The Commission further concluded that the Jorgensen’s home was “not compatible with existing historic homes in the neighborhood with respect to height, setbacks, mass, or scale, and the proposed home and garage buildings offer no substantial mitigation measures necessary to show compatibility with the nearby existing structure.” *Id.*, *Finding Number 38.* Although there is a reference to nearby homes, there is again no finding that the volume of the two buildings constituted a potential adverse effect on those properties.

It not sufficient to point out that a proposed structure is larger than nearby buildings. As long as a structure fits within the size limitations of the City’s ordinances, it should be allowed, even if it is significantly larger than nearby buildings. Subsection (8) authorizes the Planning Commission to reduce a structure’s volume. That authority, however, may only be exercised as a condition to mitigate a detrimental impact. Unless it is shown that

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<sup>65</sup> As has been discussed, the building pad is defined by the setbacks approved for the lot. The buildings may be located within that building pad, and the City does not regulate how much of the building pad may be occupied.

<sup>66</sup> As with the other criteria, the Planning Commission did not identify a specific detrimental impact related to the setbacks for 30 Sampson.

a building's volume is linked to an adverse effect on a nearby property, the Planning Commission may not order a reduction, nor may it simply deny the conditional use permit.<sup>67</sup>

To conclude, the Planning Commission failed to identify any detrimental impacts caused by the Jorgensen home, and so its findings and conclusions are missing a critical analytical component.<sup>68</sup> The Commission's blanket statements that the home has "impacts that cannot be substantially mitigated" are not supportable without identifying the adverse impacts on neighboring properties (or the hillside environment) attributed to the home. The detrimental impacts must be ascertained and defined in order to decide what conditions could be imposed, as well as find that the proposed conditions cannot substantially mitigate the impacts. It is also insufficient to state generalized impacts associated with a building or use. The impacts must be directly attributable to the particular building or use being scrutinized, and must be based on distinct adverse effects on nearby properties or the hillside environment. Once the specific impacts are identified, the analysis turns to conditions to mitigate those impacts.

#### **IV. Before a Conditional Use Permit May be Denied, Conditions to Mitigate Detrimental Impacts Must be Considered.**

After the detrimental impacts associated with a specific use have been identified, the next step is selection and evaluation of conditions to mitigate the impacts. A conditional use permit may be denied only if it is shown, by substantial evidence, that the impacts *cannot* be substantially mitigated by reasonable conditions.<sup>69</sup> The conditions, therefore, must directly address adverse effects attributed to the use. A land use authority may not impose conditions which are not associated with a use, even if the conditions would be beneficial to the neighborhood.

The Park City Planning Commission denied the Steep Slope CUP for the Jorgensen property without considering any conditions, and without determining by substantial evidence that reasonable conditions could not mitigate detrimental impacts associated with the use. The Commission's analysis is therefore incomplete. It cannot justify denying the CUP without considering conditions to mitigate detrimental impacts. The City argues that it is not obligated to propose conditions, but that the Jorgensens have that responsibility. The Jorgensens counter that the City has the responsibility to propose conditions before the CUP may be denied.

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<sup>67</sup> The Commission's consideration of the ninth criterion, "Building Height" was discussed above, in Section I.C.2, *supra*.

<sup>68</sup> This does not mean that the Planning Commission has no authority to deny the Steep Slope CUP. If conditional use analysis is needed for the Jorgensen home or the garage/elevator building (see Section II, *supra*), then denial remains within the Commission's authority. As long as it shows, with substantial evidence, that the detrimental impacts associated with the buildings cannot be mitigated with reasonable conditions, the CUP may be denied.

<sup>69</sup> UTAH CODE ANN. § 10-9a-507(2)(b). "Substantially mitigated" does not mean "completely eliminated." If the adverse effects of a particular use can be reduced in an appreciable manner through reasonable conditions, then the CUP should be approved. The land use authority may also determine that an impact has been sufficiently mitigated, even if neighboring property owners complain about the use.

In reality, both parties have a responsibility to propose conditions that would mitigate the impacts of the use, although it starts with the City. The City correctly notes that it is not obligated to redesign the Jorgensen's home, and the Jorgensen's are also correct that they should not be required to "guess" the type of conditions desired and be asked to submit repetitive plan changes. Evaluation of a conditional use permit, like consideration of most land use applications, is a process involving input from the property owner, a local planning staff, and the land use authority.<sup>70</sup> As an application is reviewed by staff members, evidence of concerns may be received and addressed, and conditions incorporated into the design before a land use authority considers the application. At a public hearing on the application, if one is held, concerned neighbors and the land use authority itself may provide evidence to identify potential impacts, and may suggest possible conditions. The land use authority bears the responsibility to identify the detrimental impacts, and also should provide guidance on how the impacts may be mitigated. The process reaches a conclusion, of course, when the land use authority approves the conditional use permit with reasonable conditions, or denies it, after finding that the impacts cannot be substantially mitigated.

Because the Park City Planning Commission did not propose or consider any specific condition, this Opinion cannot evaluate that aspect of the conditional use process. By failing to consider conditions, however, the Planning Commission's analysis was incomplete and its denial not supported by substantial evidence. At the very least, the Commission should have indicated how the detrimental impacts could have been mitigated (assuming that detrimental impacts were identified), or suggested conditions to the Jorgensens.

## Conclusion

Conditional uses are valuable components of a community's planning and zoning regulation. Some uses require extra scrutiny because of unique characteristics or impacts, including impacts directly associated with a use's location. A local government may choose to more closely evaluate a use before it is approved, in order to address possible detrimental impacts to a community or to neighboring properties.

Conditional uses are part of a community's zoning scheme, and must be administered as part of an overall zoning ordinance, not as an exception to it. When considering conditional use applications, local governments should include the design and use standards of the zoning ordinance, plus any approvals previously granted on the property. A local government has some discretion over conditional uses, but that discretion must be limited to the authority granted by the state code and a local ordinance. All determinations associated with a conditional use evaluation must be supported by substantial evidence

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<sup>70</sup> In many locations, conditional use permits are considered by a planning commission. However, other bodies may be designated as the "land use authority," which is the term used in the Utah Code. See UTAH CODE ANN. § 10-9a-103(23).

In order to properly evaluate a conditional use application, the detrimental impacts attributed to that use must be identified. The impacts must derive from the specific use being evaluated. It is not necessary to show an actual injury to a neighboring property, but only the reasonable likelihood that the use will have some adverse effect. Generalized conclusions about the use, without consideration of the particular circumstances will not suffice to show detrimental impacts.

Once the impacts are identified, conditions can be proposed to mitigate the adverse effects. The evaluation is not complete unless reasonable conditions have been considered. Conditions must be directly tied to mitigating detrimental impacts, and may not be imposed as a means to accomplish other objectives. Because conditional use evaluations are processes rather than single actions, the responsibility to propose reasonable conditions is shared with the property owners, planning staff, and the land use authority. At any point in the evaluation process, conditions may be proposed by any party and incorporated into the plans for the conditional use if supported by substantial evidence.

Ultimately, the land use authority has the final decision on whether to grant the use. If the land use authority identifies specific detrimental impacts associated with the use, it must consider conditions to mitigate those impacts. The application may be denied only if the detrimental impacts associated with the use cannot be substantially mitigated by reasonable conditions. A decision to deny the conditional use application requires consideration of conditions, and must be supported by substantial evidence.



Brent N. Bateman, Lead Attorney  
Office of the Property Rights Ombudsman

**NOTE:**

This is an advisory opinion as defined in § 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.

While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution.

Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.

The Advisory Opinion process is an alternative dispute resolution process. Advisory Opinions are intended to assist parties to resolve disputes and avoid litigation. All of the statutory procedures in place for Advisory Opinions, as well as the internal policies of the Office of the Property Rights Ombudsman, are designed to maximize the opportunity to resolve disputes in a friendly and mutually beneficial manner. The Advisory Opinion attorney fees provisions, found in Utah Code § 13-43-206, are also designed to encourage dispute resolution. By statute they are awarded in very narrow circumstances, and even if those circumstances are met, the judge maintains discretion regarding whether to award them.

## MAILING CERTIFICATE

Section 13-43-206(10)(b) of the Utah Code requires delivery of the attached advisory opinion to the government entity involved in this matter in a manner that complies with Utah Code Ann. § 63-30d-401 (Notices Filed Under the Governmental Immunity Act).

These provisions of state code require that the advisory opinion be delivered to the agent designated by the governmental entity to receive notices on behalf of the governmental entity in the Governmental Immunity Act database maintained by the Utah State Department of Commerce, Division of Corporations and Commercial Code, and to the address shown in that database.

The person and address designated in the Governmental Immunity Act database is as follows:

Marci Heil  
City Recorder  
Park City  
445 Marsac Avenue  
Park City, Utah 84060

On this 28 Day of March, 2014, I caused the attached Advisory Opinion to be delivered to the governmental office by delivering the same to the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the person shown above.

  
Office of the Property Rights Ombudsman

# **Exhibit A**

## **Findings of Fact and Conclusions of Law**

**Park City Planning Commission  
June 26, 2013**

SEE ATTACHED AS EXHIBIT G



**PARK CITY COUNCIL MEETING MINUTES  
SUMMIT COUNTY, UTAH,  
July 31, 2014**

**BOARD OF ADJUSTMENT MEMBER INTERVIEWS**

Mayor and Council conducted Board of Adjustment Interviews.

**Work Session**

**Council Questions and Comments and Manager's Report**

Council member Beerman attended a constructive COSAC meeting. Also attended Mountain Accord meetings stating he is looking forward to the upcoming updates. He gave a shout out to the PC MARC as well as the Golf Course who both received "People's Choice" awards.

Council member Matsumoto spoke with some folks who are looking at reenergizing the Library Foundation and she was in favor.

Council member Simpson thanked staff for the manager's report stating she had forgotten about the water line project and was pleased to have the information available to answer questions she had received.

Council member Henney was also pleased with the information regarding the water line project as he too had forgotten. Attended the Silly Market Sunday and felt everything was progressing on track. Thanked Dave Gustafson for the Library walk-through. Also attended Planning Commission meeting as well as a Mountain Accord meeting.

Mayor Thomas attended the Snyderville Basin Reclamation Water District meeting and bar-b-cue where they discussed impacts and growth. They also sent accolades to Clint McAfee describing how great he is to work with. Then inquired about a structure on Daly Avenue that looks like a construction site with blue tarps. Eddington stated that it is a very old panelization and that staff will follow up to get the project moving along. Council member Beerman then inquired about a demolition of what looks to be a historic structure on Park Avenue. Eddington stated that it is a historic structure and staff caught the demo in progress and has stopped the work. It was done without approval and staff is now working to salvage what they can in the project. Council member Matsumoto would like to see a large fine issued. Council member Simpson would like to see a manager's report regarding panelization storage and the monitoring process.

Council member Henney inquired about the Construction update manager's report in regards to confirming that there will be bike racks installed in the Terigo plaza. Weidenhamer stated that staff is taking Council feedback seriously and will be installing bike racks; however, they do have to look at it from a staff level, a design level, and a practicality level and do not want to place racks around town that are ill placed. Henney also would like to seriously look into Soul Poles designing a bike rack out of bamboo.

One item of staff communication was from Ann Ober and Matt Abbot in regards to Renewable Energy and Georgetown University Energy prize liaisons. Ober stated they have been working with Mayor Thomas and Council member Beerman and were looking for head nods that this was agreeable with Council. All nods were in favor.

### **Transportation Planning Update**

Kent Cashel, Transportation Manager, discussed Vision Park City, General Plan, transportation agreements and the transportation plans stating he feels that these documents only work if you embrace the visions of the community. Discussed the current adopted transportation plans including the SR 248 & SR 224 Corridor Plans, Transportation Master Plan, Short Range Transit Plan and the Trails Master Plan. Discussed the outside factors that will impact the Transportation Master Plan such as: Mountain Accord, One Wasatch, Deer Valley Gondola, PCMR Transit Hub, UDOT Winter Road Closure, Basin Long Range transportation plan, Federal Funding challenges and the State's transportation model. Cashel discussed each factor in detail stating that there are impacts both positives and negatives to each item. Mayor Thomas agreed that each item is a holistic concept that needs to be looked at individually.

Mayor Thomas and Council member Simpson spoke to the concerns with opening the Guardsman Pass connection as it affects the community. Council member Beerman stated that he agreed with Mayor Thomas and the rest of Council to be extremely clear that they are not in favor of opening that pass in the winter. Cashel spoke to the federal funding. Council member Simpson stated that they are aware how lucky the City has been with receiving federal funding and feels that it is smart to look at funding our own projects. Cashel is very excited about the granular data that the new statewide transportation model will offer. Cashel asked for feedback from Council on where staff should focus time. Mayor Thomas inquired if staff could create a matrix to visually identify the impacts of each of the discussed factors to the community. Council member Simpson stated that she would focus on the corridor letter of intent that was written in 2006. Council member Henney felt that the gondola project would be a great benefit to the community and he would love to see it brought forth in a positive light. Council member Matsumoto stated that she feels that the decisions made by Mountain Accord will have a great impact on the community and is anxious to see what they have planned. Mayor Thomas would like to look at lowering the speed limit along SR 224. Cashel outlined the protocol of UDOT. Council concurred to bring the item back to a work session as well as have a city wide speed limit regulation discussion.

### **City Council Goal Refinement**

Jed Briggs, Budget Operations Manager, spoke to the goal refinement regarding adding historic preservation to the Council Goal number 3. Council member Simpson stated that while she appreciates the work of staff she actually felt adding the words "historic fabric" to goal would sound better. Foster stated that all the historic preservation items are currently associated with goal 3. Council member Henney liked Simpson's suggestion but of the choices he would choose #1. Briggs stated that the entire Budget for Outcome items for historic preservation are included with goal 3. Council concurred that while it would sound better to use Simpson's version they will choose version number 1 to eliminate the need to restructure the BFO's.

## **HISTORIC PRESERVATION BOARD MEMBER INTERVIEWS**

Mayor and Council conducted Historic Preservation Board interviews.

### **Closed Session**

Property, Personnel and Litigation

## Regular Meeting

**I. ROLL CALL-** Mayor Jack Thomas called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, August 7, 2014. Members in attendance were Jack Thomas, Andy Beerman, Liza Simpson, Tim Henney and Cindy Matsumoto. Council member Peek was excused. Staff members present were Diane Foster, City Manager; Mark Harrington, City Attorney; Kirsten Whetstone, Planner; Clint McAfee, Water & Streets Manager; Jonathan Weidenhamer, Economic Development; Matt Twombly, Special Events; Christy Alexander, Planner; Marci Heil, City Recorder

## **II. COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF**

Mayor Thomas disclosed that he was on the Planning Commission during the 30 Sampson hearings and will be recusing himself during that item.

## **III. PUBLIC INPUT (*Any matter of City business not scheduled on the agenda*)**

Chuck Klingenstein, resident, stated that he has a few issues with the construction staging on the North 40 parking lot and the increased number of Special Events. Stated that he did receive a courtesy notice from Troy Dayley regarding the staging on the North 40 lot. He understood from this letter that the staging was supposed to last 1 week and would house roto-millings. This is not what happened, all types of machinery and dump trucks and equipment were used 6 days a week for 2 weeks. His neighbors and he feel that this has come to a crescendo and are very upset with the disruptive activity. The other topic he addressed was the intensification of the Special Events in the City. He discussed the Recreation Master Plan that was adopted in 1991 and how the recreation program has grown. Feels that it is time to revisit the Recreation Master Plan. He does not feel that the plan was ever supposed to address the special events and the transportation of such events. Asked Council to put a stop to the construction staging on the North 40 and would like to recreate a citizens group to revisit the 1991 Recreation Master Plan.

Multiple residents concurred with Chuck's statements and one added that the notice specified the hours of 7am to 7pm and the work continued well past the stop time.

Mayor Thomas stated that he lives on the same street and has experienced the same issue.

## **IV. CONSIDERATION OF MINUTES FROM JULY 17, 2014 CITY COUNCIL MEETING**

**Council member Simpson moved to approve the minutes from July 17, 2014**

**Council member Henney seconded**

**Approved unanimously**

## **V. APPOINTMENTS AND RESIGNATIONS**

Consideration of the following appointments to the Public Art Advisory Board: Bryan Markkanen, Victoria Anderson, Judy Horwitz and Hannah Palmer for a term ending July 2016

**Council member Simpson moved to make the aforementioned appointments**

**Council member Matsumoto seconded**

**Approved unanimously**

**VI. OLD BUSINESS**

1. Consideration of an Ordinance approving the 1604 & 1608 Deer Valley Drive Plat Amendment pursuant to the findings of fact, conclusions of law and conditions of approval in a form approved by the City Attorney.

Mayor Thomas opened the Public Hearing. There were no comments. Mayor Thomas closed the hearing.

**Council member Beerman moved to approve an Ordinance approving the 1604 & 1608 Deer Valley Drive Plat Amendment pursuant to the findings of fact, conclusions of law and conditions of approval in a form approved by the City Attorney.**

**Council member Simpson seconded**

**Approved unanimously**

2. Consideration of a request for remand to the Planning Commission regarding an appeal of the Planning Commission denial of Steep Slope Conditional Use Permit located at 30 Sampson Avenue

Mayor Thomas recused himself and left the Council Chambers. Planner Whetstone stated that staff and the applicant are asking for a remand to the Planning Commission of the denial of the Steep Slope Conditional Use Permit. This is a new construction single family home on 30 Sampson. In 2013, the CUP was denied and the applicant appealed the decision and requested a continuation in order to approach the State's ombudsman office for an advisory opinion. In light of the advisory opinion staff and the applicant feel that it should be allowed to be remanded back to the Planning Commission for further review. Staff has included findings of fact and conclusions of law to support the remand.

Mayor Pro Tem Simpson opened the Public Hearing. There were no comments. Mayor Pro Tem Simpson closed the hearing.

**Council member Matsumoto moved to remand to the Planning Commission regarding an appeal of the Planning Commission denial of Steep Slope Conditional Use Permit located at 30 Sampson Avenue**

**Council member Henney seconded**

**Approved unanimously**

3. Consideration of the Dority Springs Subdivision located at 1851 Little Kate Road- Plat Amendment Subdivision

Mayor Thomas opened the Public Hearing. There were no comments. Mayor Thomas closed the hearing.

**Council member Simpson moved to Continue the consideration of the Dority Springs Subdivision located at 1851 Little Kate Road- Plat Amendment Subdivision to September 4, 2014**

**Council member Matsumoto seconded**

**Approved unanimously**

*Marci Heil*

Marci S. Heil, City Recorder



## Board of Adjustment Staff Report



**Application #:** PL-14-02425  
**Subject:** 30 Sampson Avenue  
**Author:** Kirsten Whetstone, MS, AICP  
**Date:** October 7, 2014  
**Type of Item:** Variance

### Summary Recommendations

Staff recommends that the Board of Adjustment review the proposed variance request, conduct a public hearing, and consider granting the variance based on the following findings of facts and conclusion of law.

### Description

**Applicant:** Michael and Laurie Jorgensen, owners  
**Location:** 30 Sampson Avenue  
**Zoning:** Historic Residential Low Density (HRL) District  
**Adjacent Land Uses:** Historic and non-historic single family houses, open space and trails  
**Reason for Review:** Variances require Board of Adjustment approval

### Proposal

The applicant proposes to construct a single family house on a vacant platted lot located at 30 Sampson Avenue within the HRL zoning district. The applicant requests a variance from the number of stories (allowing 4 stories instead of 3) pursuant to LMC Section 15-2.1-5 (A) Building Height, that was in effect at the time application was made for a Steep Slope Conditional Use Permit (February 14, 2012). LMC Section 15-2.1-5 (A) reads as follows:

15-2.1-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(A) A Structure may have a maximum of three (3) stories. A basement counts as a Story within this zone. Attics that are not Habitable Space do not count as a Story.

The applicant is requesting a variance due to unique conditions of the lot, in that the lot has an odd hour glass shape, is steeply sloped, and has an unusually large grade

difference between the elevation at the street front of the lot and the elevation of the main building pad area. The applicant is requesting four stories which will allow an underground tunnel connection between the garage at the street level and the main house at the upper level.

### **Purpose of the HRL District**

The purpose of the Historic Residential Low-Density (HRL) District is to:

- (A) Reduce density that is accessible only by substandard Streets so these Streets are not impacted beyond their reasonable carrying capacity,
- (B) Provide an Area of lower density Residential Use within the old portion of Park City,
- (C) Preserve the character of Historic residential Development in Park City,
- (D) Encourage the preservation of Historic Structures,
- (E) Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District, and maintain existing residential neighborhoods.
- (F) Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment, and
- (G) Define Development parameters that are consistent with the General Plan policies for the Historic core.

### **Background**

On January 5, 1995, the City Council approved the Mill Site Reservation Supplemental Amended Plat (Exhibit A), which was a combination of 13 whole and partial lots, and a portion of platted un-built Utah Avenue, within the original Mill Site addition to the Park City Subdivision Plat to create three (3) lots of record. The Mill Site Reservation Supplemental Amended Plat was recorded with a note that limited the “maximum size for residential structures” to 3,000 square feet for Lots 1 and 3, and 3,500 square feet for Lot 2. An additional 400 sf was allowed for a garage. Lot 3 of the Mill Site Reservation Supplemental Amended Plat contains 7,089 sf of lot area.

On March 30, 1998, a letter was written by Richard E. Lewis, acting Community Development Director, to the owners of Lots 1, 2, and 3, clarifying that the maximum size for residential structures as noted on the plat, excluded basements as defined by the LMC. The letter also clarified the 400 sf garage allowance.

On February 14, 2012, the City received a completed application for a Conditional Use Permit (CUP) for “Construction on a Steep Slope” at 30 Sampson Avenue for a new single family house. On April 9, 2012, the application was deemed “complete”. On August 22, 2012, the application came before the Planning Commission for a public hearing and discussion. The Commission voted unanimously to continue the item to a date uncertain for the purpose of reviewing the LMC definition of “stories” as it relates to the maximum number of stories allowed in the HR-1 and HRL districts. The Commission requested Staff prepare LMC amendments to the Building Height sections for the

historic districts to more clearly identify height, massing, and articulation. The LMC discussions continued for several months and eventually the applicant requested to have the application put back before the Planning Commission for consideration.

LMC Amendments to Height and Story were adopted by the Council on November 21, 2013. Because the Steep Slope CUP application was submitted prior to publication of an ordinance for the LMC amendments this application is subject to the LMC in effect at the time of application. The City Council adopted revisions to Section 15-2.1-5. Building Height that removed the limitation on the number of stories and replaced that language with the following:

**15-2.1-5. BUILDING HEIGHT.**

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(A) A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

On April 10, 2013, the Planning Commission denied the Steep Slope CUP. There were several meetings before this date including the public hearing on August 22, 2012 and a work session on December 12, 2012. At the April 10<sup>th</sup> meeting the Commission requested Planning Staff prepare Findings of Fact and Conclusions of Law consistent with the April 10<sup>th</sup> discussion. These Findings and Conclusions were ratified by the Planning Commission on June 26, 2013 (Exhibit E).

On July 12, 2013, the applicant submitted to the City Recorder, within the required ten day appeal period, an appeal of the Planning Commission decision (Exhibit F). On August 5, 2013, the application requested a continuation of the appeal (to be heard by the City Council) in order to submit a request for an Advisory Opinion from the State of Utah Office of Property Rights. Staff agreed to continue the appeal to a date uncertain.

On March 28, 2014, Planning Staff received a copy of the Advisory Opinion (Exhibit G) and after reviewing the document scheduled a meeting with the applicant to discuss the CUP application and appeal. At the meeting the Applicant indicated willingness to consider revisions to the design related to the exterior elevator element, connector element, and the garage.

In April of 2014 Staff reviewed a plan set showing potential revisions and found that these revisions to 1) incorporate the elevator into the main house, 2) reduce the massing of the garage, and 3) reduce the amount of paving and impervious area at the street allowing for more landscaping, result in less visible massing and a more

historically compatible design. Because the revised design connects the house with the garage, a variance to the three story limitation would be required in order to move forward with a revised Steep Slope CUP application. The revised design results in a total of four stories within a single structure due to the fact that the first story (the garage is not buried).

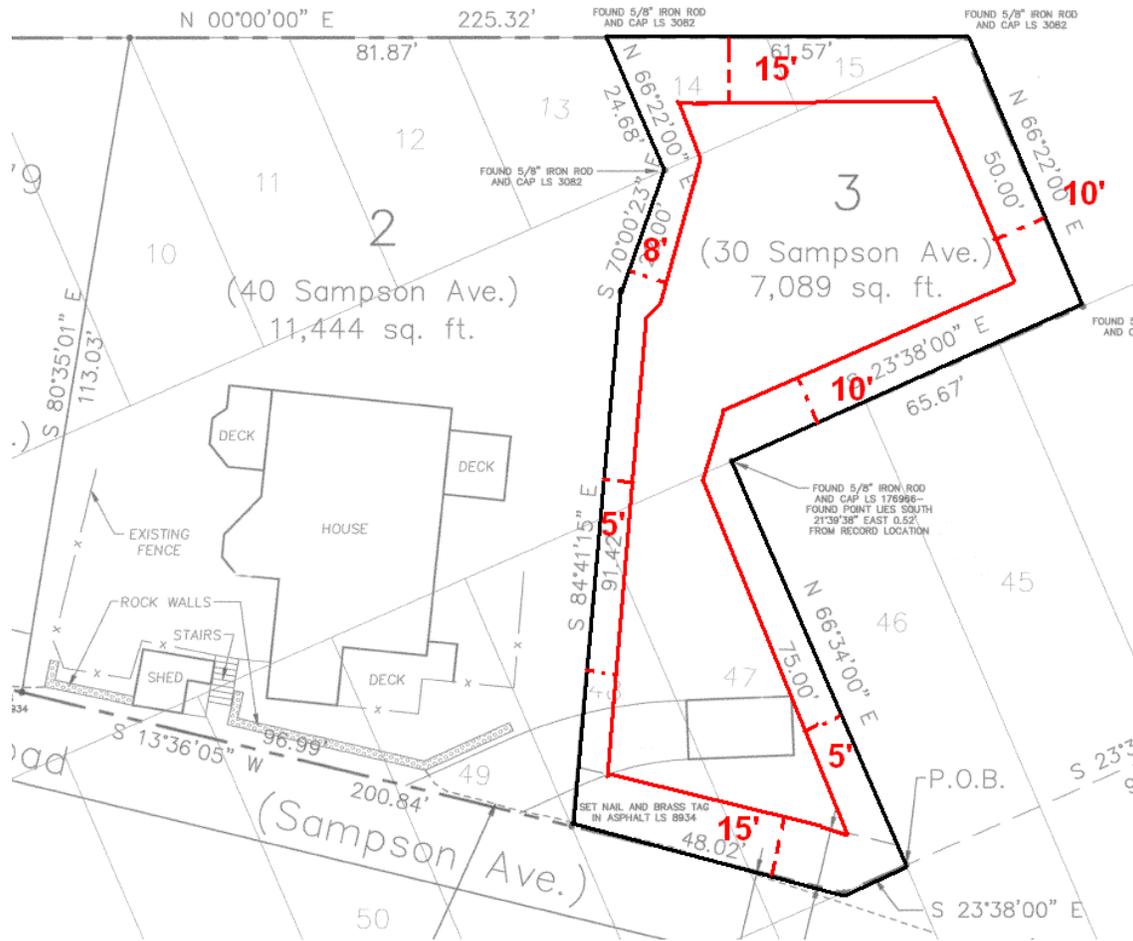
The design reviewed and denied by the Planning Commission, though technically disconnected, visually appeared to be five stories. Prior to final review by the Planning Commission, the applicant clarified in the design that the garage and subterranean walk-way (tunnel) from the main house was detached. The walkway leads to an exterior placed elevator with an exterior walkway and patio area that leads to the front of the main house. With a detached garage Staff found that the design did not violate the 3 stories height restriction in the code. This is the design that the Planning Commission denied (see Exhibit E).

On July 7, 2014, the City received an application for a variance to Section 15-2.1-5 (A) Building Height for the property located at 30 Sampson Avenue, including a letter from the owner stating why he believed the variance should be granted (Exhibit D).

On July 31, 2014, the City Council remanded the appeal of the Steep Slope CUP denial to the Planning Commission for the Planning Commission to reevaluate the Steep Slope CUP in light of the Ombudsman Opinion and for the applicant to make a variance request. The Steep Slope CUP application is pending review by the Planning Commission. If a variance is granted the applicant intends to revise the Steep Slope CUP application and Staff will prepare a report and notice the application for a public hearing by the Commission. The Historic District Design Review is pending resolution of the Steep Slope CUP application.

### **Analysis**

Staff has reviewed the proposed design for compliance with the Land Management Code, plat notes, and Planning Director determinations, including setbacks, floor area calculations, etc. The following illustrates the required setbacks and the hardship created by the hour glass shaped lot.



The total floor area square footage proposed excluding the basement and 400 sf of garage area is 2,996 square feet which is compliant with a 1998 clarification letter written by Community Development Director Lewis and plat notes that allow a total floor area of 3,000 sf. The letter clarified that basement area is not included in the maximum allowed floor area and that an allowance for 400 sf for a garage is provided, consistent with the LMC. Underground circulation, tunnel, and below grade elevator areas are also excluded from the total floor area, to the extent that they are below final grade.

Staff made the following LMC related findings:

Requirement	LMC Requirement	Proposed
Building Footprint	2,355.5 square feet (based on lot area) <u>maximum</u>	2,272 square feet, <u>complies.</u>
Building Square Foot Maximum	No LMC Requirement – 3,000 sf maximum floor area allowed per plat note.	2,996 sf floor area (1,216 sq. ft. basement and 400 sq ft garage are

		excluded), <u>complies.</u>
*Front and Rear Yard	10 feet minimum (20 feet total) 15 feet per Planning Director	15 feet (front), <u>complies.</u> 15 feet (rear), <u>complies.</u>
*Side Yard	5 feet minimum, (10 feet total)	*Various – see notes
Height	27 feet above existing grade, <u>maximum.</u>	Various heights all less than 27 feet above existing grade, <u>complies.</u>
Number of stories	A structure may have a maximum of three (3) stories.	4 stories, <b><u>does not comply- variance requested.</u></b>
Final grade	Final grade must be within four (4) vertical feet of existing grade around the periphery of the structure.	4 feet or less, <u>complies.</u>
Vertical articulation	A ten foot (10') minimum horizontal step in the downhill façade is required for the third story unless the 1 <sup>st</sup> story is completely below finished grade.	Horizontal distance from roof of garage to third story is approximately 70', <u>complies.</u>
Roof Pitch	Roof pitch must be between 7:12 and 12:12 for primary roofs. Non-primary roofs may be less than 7:12.	7:12 for all primary roofs with a minor “green roof” for the garage between the primary roof pitch, <u>complies.</u>
Parking	Two (2) off-street parking spaces required	2 spaces within the garage, <u>complies.</u>

\* Planning Director Determination of setbacks based on the fact that the lot has more than four sides. Planning Director can require greater setbacks in this instance.

In order to move forward with a revised Steep Slope CUP application for the house that incorporates an underground connection between the house and the garage and incorporates the vertical circulation elements (elevator and stairs) within the house, the applicant requests a variance from LMC Section 15-2.1-5 (A) Building Height, that was in effect at the time application was made for a Steep Slope Conditional Use Permit (February 14, 2012). That LMC Section 15-2.1-5 (A) reads as follows:

15-2.1-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

- (A) A Structure may have a maximum of three (3) stories. A basement

counts as a Story within this zone. Attics that are not Habitable Space do not count as a Story.

The LMC defined Story as follows:

- **15-15-1.249 STORY**. The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof Structure.

The applicant is requesting a variance to the maximum number of stories due to unique conditions of the lot, in that the lot has an odd hour glass shape, is steeply sloped, and has an unusually large grade difference (approximately forty feet (40')) between the elevation at the street front of the lot and the elevation of the main building pad area. The property lines also are at an angle to the street further constraining the development area. The applicant is requesting four stories to allow an underground tunnel connection between the garage at the street level and the main house at the upper level, allowing the vertical circulation (elevator or stairs) to be incorporated within the main house (Exhibit B). The lowest level of the main house is buried and the design presents visually only three stories.

With the original disconnected design the garage was considered a detached structure. As a separate structure from the house it was designed with two stories at the street and the main house was designed with the maximum allowable three stories (a fully buried basement and two stories). While not technically five stories because of the detached garage, the perceived or effective massing of the disconnected design is greater than a design that would be possible if a variance to the three story limitation is granted in order to put the elevator inside. Additionally, the disconnected elevator element, proposed to comply with the LMC, is an awkward element that increases the visually massing on the upper portion of the lot.

The variance requested is to the three story limitation because the application was submitted under the previous LMC, prior to amendments to Building Height that removed the three story limitation and added a total overall height limit of thirty-five (35') feet. The connected plan would not meet the current LMC requirement of a thirty-five (35') foot total overall height.

Due to the steepness of the lot, grade difference from the street to the main building pad, and odd hour glass shape lot a design that connects these elements as one single family house will contain four stories. If a variance is granted the elevator/stair element can be incorporated within the house resulting in a design that is more consistent with the Historic District Design Guidelines. See Exhibit C for perspective drawings.

Staff recommends a condition that the elevator and stairs be constructed within the house and that the house is constructed to appear to be a three story house from the exterior.

### **LMC Review Criteria for a Variance**

In order to grant the requested variance to the aforementioned code section, the Board of Adjustment must find that all five (5) criteria located in LMC § 15-10-9 are met. The Applicant bears the burden of proving that all of the conditions justifying a variance have been met (see Exhibit D).

**Criteria 1.** Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under the BOA may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood. In determining whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.

The alleged hardship is a function of the hour glass shape of the lot and the steepness of the lot. The elevation difference between the street level and the main building pad exceeds forty (40') feet. The hour glass shape and required setbacks create an unreasonable hardship that is not necessary to carry out the general purposes of the LMC. The shape and steepness of the lot requires the main house to be located at the upper portion of the lot in order to meet the required building setbacks and also places the house on the flatter portion of the lot. The alleged hardship is located on the Property for which the variance is sought. The hardship comes from circumstances of this Property and not from conditions that are general to the neighborhood and the hardship is not self-imposed or economic.

**Criteria 2.** There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.

There are special circumstances attached to the Property that do not apply to other Properties. These special circumstances include the shape of the platted lot as well as the steepness of the slope and difference in elevation, approximately 40', from the street level to the main building pad. These special circumstance relate to the hardship complained of that deprives the property of privileges granted to other property in the same zone. The property is subject to the same LMC requirements regarding building height, story, and setbacks as other similar sized property in the zone and due to the hardships as described above, the applicant complains that the Property is deprived of privileges granted to other Properties in the HRL zone.

**Criteria 3.** Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.

Granting of the variance allows essential enjoyment of a substantial Property right as possessed by other property owners in the HRL zone. Granting the variance allows the property owner to construct an historically compatible garage at the street, construct an underground connection through the narrow portion of the lot, and incorporate an internal vertical circulation (elevator or stairs) within the main house, in order to utilize the main portion of the lot for the house where the required building setbacks can be met.

**Criteria 4.** The variance will not substantially affect the General Plan and will not be contrary to the public interest.

Granting of the variance will not substantially affect the General Plan and will not be contrary to the public interest as the internal connection is underground and not visible from the street. The perceived massing is three stories. The variance allows construction of an underground tunnel connection between the garage at the street and the main house at the upper portion of the lot that is approximately forty feet (40') higher. The variance allows an elevator, or other vertical circulation system, to be incorporated within the house resulting in a more historically consistent design and allows removal of an awkward external disconnected elevator element mid lot. One of the goals identified in the current General Plan is to ensure that the character of new construction is architecturally-compatible to the existing historic character of Park City. The variance allows a design with an internal connection that meets the Historic District Design Guidelines, while the design with the disconnected exterior elevator structure is awkward and is not a typical design in the historic district.

**Criteria 5.** The spirit of the Land Management Code is observed and substantial justice done.

The variance as proposed will not conflict with the spirit of the zoning ordinance. Granting the variance will allow the applicant to comply with the spirit of the LMC and to construct a more compatible design, utilize the main portion of the lot and provide an internal, underground, non-visible connection from the garage to the main house. The spirit of the Land Management Code is observed and substantial justice is done in that the variances allow the owner to provide an internal connection to the main house that is protected from the weather, is compatible with the Historic Design Guidelines, and allows utilization of the main portion of the lot that is approximately forty (40') feet above the grade at the street.

### **Future Process**

Approval of the variance by the Board of Adjustment constitutes Final Action. The Board's decision may be appealed by petition to the District Court in Summit County for a review of the decision following the procedures found in LMC § 15-10-12. Approvals of a Historic District Design Review or "HDDR" for the house, as well as approval of a Steep Slope Conditional Use Permit, are necessary prior to the issuance of a building permit.

If the variance is granted the applicant could submit a revised Steep Slope Conditional Use permit for review by the Planning Commission. If a variance is not granted, the applicant can pursue review of the remanded appeal and the Advisory Opinion with the Planning Commission.

### **Department Review**

The Variance application has been reviewed by the Planning, Building and Legal Departments. Issues raised and clarifications are reflected in this report.

### **Notice**

On August 5, 2014, the property was posted and notice of the variance request was mailed to property owners within 300 feet of the property in accordance with requirements of the Land Management Code. Legal notice was published in the Park Record on August 2, 2014, according to requirements of the Code.

### **Public Input**

No public input on this variance application has been received.

### **Significant Impacts**

There are no significant fiscal or environmental impacts from this application.

### **Consequences of not taking the Suggested Recommendation**

The applicant would not be able to move forward with the internally connected tunnel and elevator design. The applicant could pursue review of the appeal of the disconnected design and the Advisory Opinion with the Planning Commission.

### **Recommendation**

Staff recommends that the Board of Adjustment review the proposed variance request, conduct a public hearing, and consider granting the variance based on the following findings of facts and conclusion of law.

### **Findings of Fact (for Approval)**

1. The property is located at 30 Sampson Avenue.
2. The property is located within the Historic Residential Low Density (HRL) District.
3. The property is Lot 3 of the Mill Site Reservation Supplemental Amended Plat, approved by City Council on January 19, 1995 and recorded at Summit County on August 31, 1995. Plat notes restrict the size of a house (in terms of floor area) on Lot 3 to a maximum of 3,000 sf. A 400 sf allowance for a garage is allowed and basement area is not included in the house size.
4. On July 7, 2014, the owner submitted an application requesting a variance to LMC Section 15-2.1-5 (A) to allow a total of four stories for the proposed single family house due to the odd hour glass lot configuration, steepness of the lot, and approximately forty feet (40') of grade change between the street level and the main building pad area.
5. On August 5, 2014, the property was posted and notice of the variance request was mailed to property owners within 300 feet of the property. Legal notice was

published in the Park Record on August 2, 2014, according to requirements of the Code.

6. The Lot is currently vacant and the owner desires to construct a single family house on the lot.
7. The unreasonable hardship is the configuration and steepness of the Lot. The lot has an odd hour glass shape and includes a large grade difference between the lot area at the street and upper building pad area for the main house. The shape of the lot limits the location of the building pad for both the garage and the main house due to required setbacks from the property line. At the waist of the hourglass shape the lot is twenty-one feet with required side yard setbacks of five feet on either side. The property lines also are at an angle to the street further constraining the development area.
8. The difference in grade between the street and the main building pad is approximately 40'. This grade change combined with the odd shape of the lot creates a hardship in complying with the three story limitation of the zone.
9. The applicant is requesting four stories to allow an underground connection between the garage at the street level and the main house at the upper level, allowing the vertical circulation (elevator or stairs) to be incorporated within the main house.
10. The alleged hardship is a function of the hour glass shape of the lot and the steepness of the lot. The elevation difference between the street level and the main building pad is approximately forty (40') feet.
11. The hour glass shape and required setbacks create an unreasonable hardship that is not necessary to carry out the general purposes of the LMC.
12. The shape of the lot requires the main house to be located at the upper portion of the lot in order to meet the required building setbacks.
13. The alleged hardship is located on the Property for which the variance is sought.
14. The hardship comes from circumstances of this Property and not from conditions that are general to the neighborhood and the hardship is not self-imposed or economic.
15. Granting of the variance allows to the applicant the same rights as other property owners in the district.
16. There are special circumstances attached to the Property that do not apply to other Properties These special circumstances include the odd hour glass shape of the platted lot as well as the steepness of the slope and difference in elevation, approximately forty feet (40'), from the street level to the main building pad.
17. These special circumstance relate to the hardship complained of that deprives the property of privileges granted to other property in the same zone.
18. The property is subject to the same LMC requirements regarding building height, story, and setbacks as other similar sized property in the district and due to the hardships as described above, the applicant complains that the Property is deprived of privileges granted to other Properties in the HRL zone.
19. Granting of the variance allows essential enjoyment of a substantial Property right as possessed by other property owners in the HRL zone.
20. Granting the variance allows the property owner to construct an historically compatible garage at the street, construct an underground connection through the narrow portion of the lot, and incorporate an internal vertical circulation

(elevator or stairs) within the main house, in order to utilize the main portion of the lot for the house where the required building setbacks can be met.

21. Granting of the variance will not substantially affect the General Plan and will not be contrary to the public interest as the internal connection is underground and not visible from the street. The perceived massing is three stories.
22. The variance allows construction of an underground tunnel connection between the garage at the street and the main house at the upper portion of the lot that is approximately forty feet (40') higher. The variance allows an elevator, or other vertical circulation system, to be incorporated within the house resulting in a more historically consistent design and allows removal of an awkward external disconnected elevator element mid lot. The variance allows a design with an internal connection that meets the Historic District Design Guidelines, while the design with the disconnected exterior elevator structure is awkward and is not a typical design in the historic district.
23. Granting the variance will allow the applicant to comply with the spirit of the LMC and to construct a more compatible design, utilize the main portion of the lot and provide an internal, underground, non-visible connection from the garage to the main house.
24. The spirit of the Land Management Code is observed and substantial justice is done in that the variances allow the owner to provide an internal connection to the main house that is protected from the weather, is compatible with the Historic Design Guidelines, and allows utilization of the main portion of the lot that is approximately forty (40') feet above the grade at the street.
25. One of the goals identified in the current General Plan is to ensure that the character of new construction is architecturally-compatible to the existing historic character of Park City. The applicant will be required to go through the HDDR process for compatibility with the adopted Historic District Design Guidelines prior to the construction of the house.

#### **Conclusion of Law (for approval)**

1. Literal enforcement of the Historic Residential Low Density (HRL) District requirements for this property regarding the number of allowable stories causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have been met.

#### **Conditions of Approval**

1. The vertical circulation elevator and stairs shall be constructed within the house.
2. The house shall be constructed to appear as three (3) stories on the exterior.

**Order (for approval)**

1. A variance to LMC Section 15-2.1-5 (A) is hereby granted to allow up to four stories on Lot 3 of the Mill- Site Reservation Supplemental Amended Plat.
2. The variance runs with the land.

**Exhibits**

Exhibit A – Existing Plat

Exhibit B – Site Plan, Floor Plans, Elevations

Exhibit C – Photos and Perspectives

Exhibit D – Applicants letter requesting the variance

Exhibit E – Findings and Conclusions and plans of the June 26, 2013 Commission denial

Exhibit F– Appeal of Planning Commission decision (not including exhibits)

Exhibit G – Advisory Opinion (not including exhibits)

Note that all exhibits to the Appeal and the Advisory Opinion are available at the City Planning Department and can be provided electronically if requested. This information is provided as background information and is not specific to the findings that are required in order to grant a Variance for this Lot.

PARK CITY MUNICIPAL CORPORATION  
BOARD OF ADJUSTMENT  
MINUTES OF OCTOBER 7, 2014

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Travis McGhee, Hans Fuegi, Dave Robinson, Mary Wintzer

EX OFFICIO: Thomas Eddington, Kirsten Whetstone, Polly Samuels McLean, Makena Hawley

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ROLL CALL

Chair Gezelius called the meeting to order at 5:10 p.m. and noted that all Board Members were present except Jennifer Franklin who was excused.

ADOPTION OF MINUTES OF JUNE 17, 2014

Board Member Fuegi noted that he had attended the June 17<sup>th</sup> meeting but his name was not listed in the Board Member in Attendance. The attendance record should be corrected to reflect that Mr. Fuegi was present.

MOTION: Board Member Fuegi moved to Approve the minutes of June 17, 2014 as corrected. Board Member McGhee seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

Chair Gezelius had confirmed with confirmed with Staff that the next Board of Adjustment meeting would be October 21, 2014. The November meeting was scheduled for November 11, 2014. The BOA was still scheduled to meet with the City Council on November 13, 2014, pending the City Council schedule. Director Eddington would notify the Board when that date is confirmed.

Director Thomas Eddington introduced Melissa Band as the new Planning Commission liaison to the Board of Adjustment.

Board Member Wintzer disclosed that she would be recusing herself from the 30 Sampson Avenue item on the agenda this evening due to an attorney/client relationship with Wade Budge, the applicant's legal counsel.

Chair Gezelius disclosed that she was a seated member of the City Council when the 30 Sampson lot was created. However, she did not believe that would present a conflict regarding the variance and she intended to participate in the discussion and vote.

#### REGULAR MEETING – Discussion, Public Hearing and Possible Action

30 Sampson Avenue – Variance to section 15-2.1-5 Building Height to allow four (4) stories. (Continuation from September 23, 2014)  
(Application #PL-14-02425)

Board Member Wintzer recused herself and left the meeting.

Planner Kirsten Whetstone reported that the property is located at 30 Sampson Avenue. She reviewed an exhibit on page 19 of the Staff report showing the three lot subdivision and the lot that was created in 1996. Planner Whetstone stated that before a variance can be granted, it must meet five criteria outlined in Section 15-1-9 of the LMC. Planner Whetstone had provided the criteria for review of a variance on page 22 of the Staff report. The criteria addresses 1) unreasonable hardship; 2) special circumstances attached to the property; 3) granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone; 4) The variance will not substantially affect the General Plan; 5) the spirit of the LMC is observed and substantial justice is done.

Planner Whetstone stated that the criteria look at the circumstances surrounding the property. She remarked that on this particular property the recurring theme is the distance between the street and the building pad and the narrowness of the lot where the building pad goes up the hill. The function and dimensions of the lot make it difficult to connect a garage from the street to the building pad. The applicants were proposing a tunnel to help address the problem, which the Planning Commission had reviewed with the conditional use permit. The issue is where the tunnel is connected to come up through the house, it creates four stories.

Planner Whetstone noted that the application for 30 Sampson was submitted when the LMC had a rule limiting the number of stories in a structure. If the garage was not connected, the stories of the garage and the stories of the house were added together. After significant discussion, the Chief Building Official determined that if the garage was not connected, it would be considered a separate structure. Planner Whetstone stated that since the time the application was submitted, the Planning Commission amended the LMC to address the issue of split levels and whether they would be considered individual stories. The Planning Commission amended the LMC to have a standard maximum distance of 35' feet from the lowest floor plane to the highest wall place. The LMC amendment was adopted by the City Council. She clarified that the current

standard is overall height instead of whether or not there is a connection. Planner Whetstone pointed out that the property at 30 Sampson Avenue would still not meet the maximum height standard, which speaks to the functionality of the site when the lot was created.

The Staff conducted an analysis and found that the lot qualifies for the requested variance and meets all five criteria. Findings of Fact and Conclusions of Law were included in the Staff report. Planner Whetstone commented on a design element change to put the elevator on the inside of the house rather than the outside if the variance is allowed. The Staff believed that was a better design solution. If the Board decides to grant the variance, Planner Whetstone requested that they make sure that the vertical element is connected to the house and not left on the outside. They should also require that when the house is constructed it should appear to be three stories. The Staff had added Conditions of Approval to address those requirements.

Planner Whetstone remarked that variances run with the land and the request is for a variance to override the 3-story rule that was in place when the application was submitted.

Wade Budge, representing the applicant, thanked Planner Whetstone for a good Staff report. His clients agreed with what was set forth in the report. Mr. Budge stated that his clients, Michael and Laurie Jorgensen have been Summit County residents for 16 years. They purchased the lot in 1998. Prior to the purchase, they asked if the seller would obtain a letter from the Community Development Director confirming that a home could be built on this lot, and that they could have a garage and a basement. Mr. Budge noted that the letter was referenced in the Staff report. He believed the request for the letter indicates that the Jorgensen's had been careful to do their due diligence when purchasing this lot.

Mr. Budge stated that the Jorgensen's waited for the right time to build a home and in 2012 they submitted an application. The design that went forward to the Planning Commission was for two structures. One was the main building and the other was a garage structure with an exterior elevator shaft. The primary reason for the design was an effort to comply with the maximum story limitation in the Code. Mr. Budge clarified that Michael Jorgensen is a doctor and he is friends with some of his patients. One of his friends has special needs and it is important to the Jorgensen's to make their house accessible to everyone who wants to visit their home. The elevator helps facilitate that goal. Mr. Budge remarked that the applicants proceeded with that application; however, the Planning Commission did not like the look and feel of the design and it was rejected. He pointed out that the applicants went through another process to obtain an Advisory Opinion from the State and the Opinion went in their favor. However, rather than proceeding with the same plan, the applicants worked with the Planning Staff and agreed to consider revisions to the design related to the

exterior elevator element, connector element and the garage. The intent was to improve the design to make it acceptable for everyone.

Mr. Budge explained that the current design removes the exterior component and creates a simple one-story garage. A tunnel would be buried into the hillside and the elevator would be inside the home structure. Mr. Budge pointed out that the view walking down Sampson would be a one-story garage and a home on the hill that is stepped back approximately 94 feet. Due to the tunnel, the garage and house would appear as two distinct structures but they would be connected. However, the underground connection technically makes it a four story structure under the Building Code.

Jonathan DeGray, the project architect walked through the exhibits in the Staff report. He noted that the hourglass shape of the lot and the flat pad for the garage. Mr. DeGray indicated the steep topography of the Lot and the building pad area. He reviewed the garage layout, the at-grade landscaping and outdoor space at the rear of the main structure. Mr. DeGray indicated the subterranean element that was the reason for requesting the variance. He pointed out the fourth story level that was created by the proposed connection. He indicated a closet in the circulation area of the house near the elevator and stairs that would be for storage. Mr. DeGray remarked that there the area was circulation only and there was no habitable space.

Chair Gezelius asked for the approximate length of the house. Mr. DeGray replied that it was 37feet and  $\frac{3}{4}$  inches.

Mr. DeGray presented the exhibit walking through the building. The house itself is a three-story structure with bedrooms on the lower level. The uppermost level is the main level with living, dining and kitchen space. The total square footage of the home is approximately 2,996 square foot and an additional 400 square feet for the garage.

Board Member Robinson noted that the basement level was showing three windows and he assumed they were surrounded by a window well. Mr. DeGray answered yes. Mr. Robinson asked for the approximate dimension of the window well. Mr. DeGray stated that the depth is 5-feet. He had reviewed the window wells with the Building Official and the Planning Commission in terms of egress and other issues.

Chair Gezelius understood that the elevator would service all three floors of the house. Mr. DeGray replied that it would service all four levels.

Mr. DeGray reviewed the south elevation exhibits on pages 43 and 58 of the Staff report comparing the currently proposed tunnel design with the previous design. He believed the real issue was the exterior elevator and how it occupies the space on the lot. He personally thought the tunnel was more appealing. The

elevator shaft shown on page 58 was a product of having to comply with the Code as written. Mr. DeGray remarked that it would be unfortunate if they had to build it, but he believed it was buildable. He stated his preference for the scheme presented on page 43 of the Staff report.

Mr. Budge reviewed the five criteria to grant a variance and why he believed they meet all five.

The first criteria is to show a literal hardship if full compliance with the LMC is enforced. Mr. Budge believed a hardship was imposed because without the variance they would not be able to have a connection without the tower. In order to have the same connectivity that others on Sampson enjoy, they need to have the relief they were seeking this evening. Mr. Budge clarified that the variance would not provide an economic benefit to the applicant because the tunnel would be more costly than the elevator shaft. The Jorgensen's prefer this design because it is a better way to be neighborly and to make their home fit into the Old Town community. Mr. Budge remarked that the hardship created by the topography and the unique shape of the lot satisfies the criteria.

The second criteria related to special circumstances. Mr. Budge thought the Staff report did a good job describing a unique circumstance related to the topography and narrowing of the lot. He pointed out that other homes in the HRL zone have covered connections. Mr. Budge stated that another reason for granting the variance is the applicants' belief that the entire zoning code should not be changed just to accommodate their special circumstance. He pointed out that because the story limitation has already been changed in the Code, granting a variance for this property would not set a precedent for other properties.

The third criteria is whether granting the variance was essential to the enjoyment of a substantial property right. Mr. Budge believed this related to the connectivity and access issues he previously mentioned.

The fourth criteria is that the variance would not substantially affect the general plan or be contrary to the public interest. Mr. Budge noted that the Planning Commission did not like the first design because it was too much mass close to the street. Therefore, the Jorgensen's modified the plan and designed something that was in the public interest because it removes the tower and the mass and gives the appearance of two disconnected structures with landscaping. This new design mitigates the impacts and benefits the community.

The fifth criteria is to observe the spirit of the land use ordinance. Mr. Budge believed this criteria was met with the revised design because it is good for the neighbors, the neighborhood and the Jorgensen family, and it is consistent with the requirements imposed for developing in this area.

Mr. Budge understood that the Staff recommended conditioning the variance if approved. The applicants were not opposed to the conditions and they would abide by them.

Michael Jorgensen, the applicant, stated that when they purchased the lot they knew it would be a process to build. The Planning Staff has been very helpful in trying to suggest solutions. Dr. Jorgensen remarked that they were only trying to build a home for their family in a way that is aesthetically pleasing. When they purchased the lot they did so with connectivity in mind, which is why they were willing to modify the design when they found that it did not meet the LMC criteria. He pointed out that the variance to accommodate the connection was the only request. They were not asking for additional square footage and the project met all the other requirements.

Chair Gezelius opened the public hearing.

There were no comments.

Chair Gezelius closed the public hearing.

Board Member Robinson had visited the site and he agreed that it is a steep lot. Mr. Robinson stated that being on site gave him a perspective of the challenges the applicants were dealing with. He believed the criteria had been met and he supported the Staff recommendation.

Board Member Fuegi had also visited the site and he complimented Mr. DeGray for having the ability to design on a challenging lot. Mr. Fuegi did not agree with the comments that the lot was unusually steep for that area. He was surprised by the number of steep slope lots in the area that are yet to be developed. Mr. Fuegi understood the special circumstance because the application was submitted under the previous Land Management Code. However, he was hesitant to grant the variance because the height would still not comply if the application was submitted under the current Code.

Mr. Budge clarified that the main building would comply with the height, but if they were to use the ground floor of the garage as the measuring point, it would not meet the height. Planner Whetstone remarked that it was partly due to the steepness and partly the change in grade to reach the building pad because the lot is so deep.

Board Member Fuegi had concerns about setting a precedent for others with a similarly steep lot who design a similar solution. It is a good idea but it does not meet Code. He understood the dilemma the applicants faced but it was a very big precedent to set.

Chair Gezelius believed that the Code is sometimes insensitive to the topography of the vacant lots that are left. A reason for requesting a variance is because the lot has an unusual shape or elevation. Chair Gezelius stated that it was very important to have garages on this very narrow street so cars do not park on the street and it can be plowed. Chair Gezelius did not see it as precedent setting because each property owner has to make their case for a variance based on their own situation. She pointed out that this particular application is effected by the rules in place today, but there are existing four story homes along the street that were built under a previous Code. She preferred an underground element versus a vertical structure on the exterior. Chair Gezelius remarked that when the area was zoned HRL, the goal was to have single family homes as opposed to nightly rentals, duplexes or triplexes.

Board Member Fuegi read from LMC 15-2.1-6, "Development on steep slope must be environmentally sensitive to hillside areas and carefully planned to mitigate adverse effects on neighboring land and improvements consistent with the Historic Design Guidelines." He believed the challenge with this particular lot is the lack of space to stage construction. He did not believe it was possible to build the project without severely impacting the neighbors.

Chair Gezelius asked if it was possible to build the garage last and use that area for staging. Mr. DeGray answered yes.

Assistant City Attorney reminded the Board that once they make their decision the application goes back to the Planning Commission for a Steep Slope conditional use permit review. The Planning Commission would evaluate the application against all the criteria cited in the Land Management Code.

Board Member Fuegi still had concerns, but he was interested in hearing from his fellow Board members.

Board Member Travis McGhee stated that he knows the area very well and he understood all the points that were made this evening. He agreed with Chair Gezelius that the Board needs to consider the Code, but they also need to use their judgment to see if unique circumstances apply. He believed this lot was a unique circumstance and he was not worried about setting a precedent. Mr. McGhee was more concerned about having an external structure. The perceived mass is three stories and he believed the four-story issue was more of a technicality. The BOA is charged with looking at a variance and whether it meets the criteria; and based on that he could find no reason not to support the variance.

Chair Gezelius concurred. She felt that each of the five criteria were met with this application. She also agreed with the conditions of approval stating that the vertical circulation elevator and stairs shall be constructed within the house. Chair Gezelius believed this was a preferable plan and it justifies the variance.

MOTION: Board Member Robinson moved to Grant the variance for 30 Sampson Avenue as outlined by Staff, subject to the Findings of Fact, Conclusions of Law and the Conditions of Approval as outlined in the Staff report. Board Member McGhee seconded the motion.

VOTE: The motion carried 3-1. Board Member Fuegi voted against the motion.

#### Findings of Fact – 30 Sampson Avenue

1. The property is located at 30 Sampson Avenue.
2. The property is located within the Historic Residential Low Density (HRL) District.
3. The property is Lot 3 of the Mill Site Reservation Supplemental Amended Plat, approved by City Council on January 19, 1995 and recorded at Summit County on August 31, 1995. Plat notes restrict the size of a house (in terms of floor area) on Lot 3 to a maximum of 3,000 sf. A 400 sf allowance for a garage is allowed and basement area is not included in the house size.
4. On July 7, 2014, the owner submitted an application requesting a variance to LMC Section 15-2.1-5 (A) to allow a total of four stories for the proposed single family house due to the odd hour glass lot configuration, steepness of the lot, and approximately forty feet (40') of grade change between the street level and the main building pad area.
5. On August 5, 2014, the property was posted and notice of the variance request was mailed to property owners within 300 feet of the property. Legal notice was published in the Park Record on August 2, 2014, according to requirements of the Code.
6. The Lot is currently vacant and the owner desires to construct a single family house on the lot.
7. The unreasonable hardship is the configuration and steepness of the Lot. The lot has an odd hour glass shape and includes a large grade difference between the lot area at the street and upper building pad area for the main house. The shape of the lot limits the location of the building pad for both the garage and the main house due to required setbacks from the property line. At the waist of the hourglass shape the lot is twenty-one feet with required side yard setbacks of five feet on either side. The property lines also are at an angle to the street further constraining the development area.
8. The difference in grade between the street and the main building pad is approximately 40'. This grade change combined with the odd shape of the lot creates a hardship in complying with the three story limitation of the zone.
9. The applicant is requesting four stories to allow an underground connection between the garage at the street level and the main house at the upper level, allowing the vertical circulation (elevator or stairs) to be incorporated within the main house.
10. The alleged hardship is a function of the hour glass shape of the lot and the steepness of the lot. The elevation difference between the street level and the

main building pad is approximately forty (40') feet.

11.The hour glass shape and required setbacks create an unreasonable hardship that is not necessary to carry out the general purposes of the LMC.

12.The shape of the lot requires the main house to be located at the upper portion of the lot in order to meet the required building setbacks.

13.The alleged hardship is located on the Property for which the variance is sought.

14.The hardship comes from circumstances of this Property and not from conditions that are general to the neighborhood and the hardship is not self-imposed or economic.

15.Granted of the variance allows to the applicant the same rights as other property owners in the district.

16.There are special circumstances attached to the Property that do not apply to other Properties These special circumstances include the odd hour glass shape of the platted lot as well as the steepness of the slope and difference in elevation, approximately forty feet (40'), from the street level to the main building pad.

17.These special circumstance relate to the hardship complained of that deprives the property of privileges granted to other property in the same zone.

18.The property is subject to the same LMC requirements regarding building height, story, and setbacks as other similar sized property in the district and due to the hardships as described above, the applicant complains that the Property is deprived of privileges granted to other Properties in the HRL zone.

19.Granted of the variance allows essential enjoyment of a substantial Property right as possessed by other property owners in the HRL zone.

20.Granted the variance allows the property owner to construct an historically compatible garage at the street, construct an underground connection through the narrow portion of the lot, and incorporate an internal vertical circulation (elevator or stairs) within the main house, in order to utilize the main portion of the lot for the house where the required building setbacks can be met.

21.Granted of the variance will not substantially affect the General Plan and will not be contrary to the public interest as the internal connection is underground and not visible from the street. The perceived massing is three stories.

22.The variance allows construction of an underground tunnel connection between the garage at the street and the main house at the upper portion of the lot that is approximately forty feet (40') higher. The variance allows an elevator, or other vertical circulation system, to be incorporated within the house resulting in a more historically consistent design and allows removal of an awkward external disconnected elevator element mid lot. The variance allows a design with an internal connection that meets the Historic District Design Guidelines, while the design with the disconnected exterior elevator structure is awkward and is not a typical design in the historic district.

23. Granted the variance will allow the applicant to comply with the spirit of the LMC and to construct a more compatible design, utilize the main portion of the lot and provide an internal, underground, non-visible connection from the garage to the main house.

24. The spirit of the Land Management Code is observed and substantial justice is done in that the variances allow the owner to provide an internal connection to the main house that is protected from the weather, is compatible with the Historic Design Guidelines, and allows utilization of the main portion of the lot that is approximately forty (40') feet above the grade at the street.

25. One of the goals identified in the current General Plan is to ensure that the character of new construction is architecturally-compatible to the existing historic character of Park City. The applicant will be required to go through the HDDR process for compatibility with the adopted Historic District Design Guidelines prior to the construction of the house.

#### Conclusions of Law – 30 Sampson Avenue

1. Literal enforcement of the Historic Residential Low Density (HRL) District requirements for this property regarding the number of allowable stories causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC §15-10-9, have been met.

#### Conditions of Approval – 30 Sampson Avenue

1. The vertical circulation elevator and stairs shall be constructed within the house.
2. The house shall be constructed to appear as three (3) stories on the exterior.

#### Order

1. A variance to LMC Section 15-2.1-5 (A) is hereby granted to allow up to four stories on Lot 3 of the Mill- Site Reservation Supplemental Amended Plat.
2. The variance runs with the land.

Chair Gezelius adjourned the meeting at 5:53 p.m.

Approved by \_\_\_\_\_  
Ruth Gezelius, Chair

## Board of Adjustment

Existing Home Size Analysis – Neighboring Properties  
(based on Summit County Records available to Staff as of 12-7-12)

Address	House Size + garage (sq. ft.)	Footprint (total sq. ft. estimate)	Total Size (sq. ft.)	Lot Size (total ac/sq. ft.)
205 Norfolk	7,711 + 612	3,200	8,323	.38 or 16,553
201 Norfolk	4,286 + 546	2,165	4,832	.14 or 6,115
16 Sampson*	3,684 + 457	2,160	4,141	.14 or 6,100
40 Sampson	(Unknown) + 0	1,746	0**	.26 or 11,444
41 Sampson	908 + 0	908 (1,830 possible)	908	.11 or 4,792
50 Sampson	3,674 + 500	1,830	4,174	.16 or 6,970
60 Sampson	3,800 + 446	1,900	4,246	.15 or 6,534
99 Sampson	2,990 + 500	1,500	3,490	.10 or 4,560
121 Sampson	1,854 + 0	680	1,854	.15 or 6,534
131 Sampson	2,085 + 240	750	2,325	.14 or 6,098
133 Sampson	2,593 + 626	1,200	3,219	.09 or 3,920
135 Sampson	3,014 + 484	560	3,498	.13 or 5,600
<b>30 Sampson</b>	<b>2,996 + 552</b>	<b>2,179</b>	<b>3,548</b>	<b>.16 or 7,089</b>

\*HDDR and SS-CUP previously approved, but the home is not yet built.

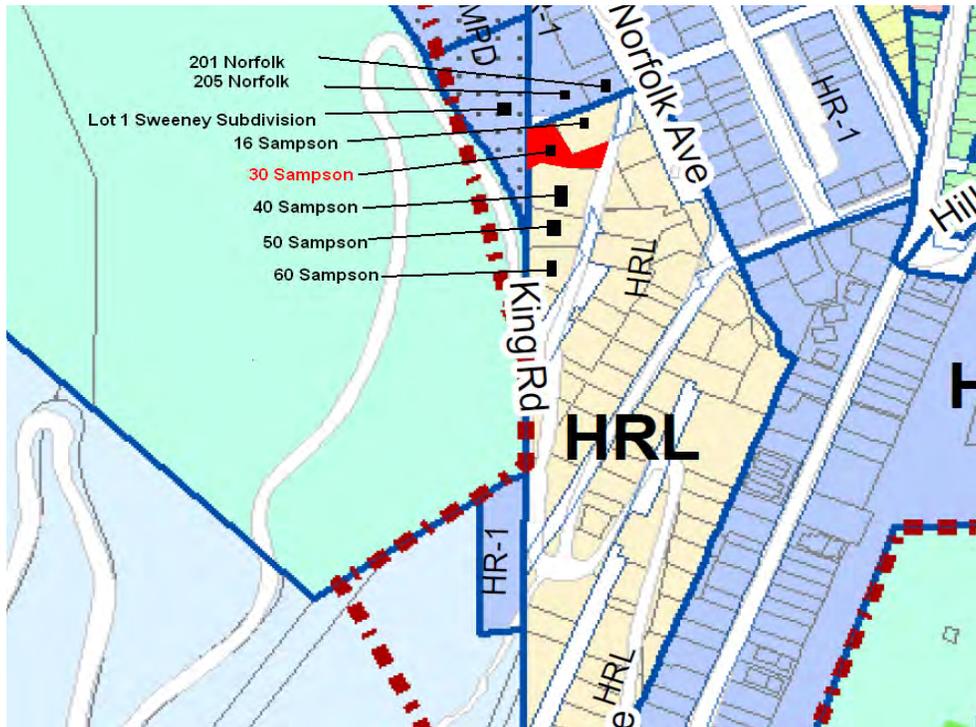
\*\*Not used to calculate average home size below, however lot size and footprint were used.

Based on the analysis above with the numbers available to Staff through City and County records available on this date, the average total home size for the adjoining properties and the Sampson Avenue properties is 3,713 square feet, the average lot size is .16 acres, and the average footprint is approximately 1,540 square feet.

It is important to note that the subject property is 7,089 square feet, which would be the second largest lot on Sampson Avenue. Only 40 Sampson Avenue has a bigger lot (11,444 square feet), and the next closest in size is 50 Sampson Avenue with a 6,970 square foot lot. The home size of 40 Sampson Avenue is unknown, but county records show a footprint of 1,746 square feet (a portion of the house is two stories), and 50 Sampson Avenue is 4,074 with a footprint of 1,830 square feet.

Considering the proposed location of the proposed home on Sampson Avenue, all adjacent properties should be considered in the analysis, not just the Sampson Avenue properties. The proposed home will actually be situated closer to 205 Norfolk and the

any future home built on Lot 1 of the Treasure Hill Subdivision, which sits directly to the west of (above) 30 Sampson Avenue. Thus the existing footprint and home size of 201 and 205 Norfolk are included. It is also important to consider the potential of Lot 1 of the Treasure Hill Subdivision has an allowed footprint of 3,500 square feet (per the Treasure Hill MPD). As previously noted, 201 and 205 Norfolk Avenue (as well as Lot 1 Treasure Hill) are in the HR-1 District, which is less restrictive than the HRL District with respect to lot size and allowed uses (see illustration below).



The subject lot was created by the Millsite Supplemental Plat Amended Subdivision, which was a combination of 13 whole and partial lots, and a portion of "Utah Avenue" within the original Millsite addition to Park City Subdivision Plat. The plat amendment reduced the overall density in terms of dwelling units on the substandard streets consistent with the purpose statements for the HRL zone.

