

**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL
June 17, 2014**



AGENDA

MEETING CALLED TO ORDER - 5:00 PM

ROLL CALL

ADOPTION OF MINUTES OF April 15, 2014

PUBLIC COMMUNICATIONS – *Items not scheduled on the regular agenda*

STAFF AND BOARD COMMUNICATIONS/DISCLOSURES

REGULAR AGENDA – *Discussion, possible public hearing, and possible action as outlined below*

129 Main Street – Variance request regarding removing the requirement of a 10 foot horizontal step on third story façade.
Public hearing and possible action

PL-14-02297
Planner Grahm

Pg.7

ADJOURN

A majority of Board of Adjustment members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.

Board of Adjustments

Council Chambers – City Hall

April 15, 2014

NOTE: The recorder did not work properly for the duration of this meeting. These notes have been compiled to the best of staff's ability.

Recorder Notes by Makena Hawley

Board Members: Richard Miller (RM), Hans Fuegi (HF), Ruth Gezelus (RG), Jennifer Franklin (JF), Mary Wintzer (MW), Steve Joyce (SJ) –(Liaison) - Quorum

Staff: Anya Grahn (AG), Thomas Eddington (TE), Polly Samuels McLean (PS), Makena Hawley (MH)

Meeting Called to order at 5:06 PM

ROLL CALL

All Members are present and accounted for.

ADOPTION OF MINUTES FROM MARCH 18, 2014

MOTION: HF moved to approve

VOTE: Seconded by MW

ADOPTION OF MINUTES motion carried unanimously

PUBLIC COMMUNICATION

None

STAFF/BOARD DISCLOSURES

TE- None

MW- I will be recusing myself because of a personal and business relationship with this applicant.

TE- 333 Main affordable housing. In response to a request for information at the last meeting there is no requirement for affordable housing at this site. The original approval of this building did not require such.

REGULAR AGENDA

RG -632 Deer Valley Loop – Appeal of Historic Preservation Board’s determination of historical significance of the site.

AG- Identified as a significant site in 2009, applicants have been fighting with The Bureau of Land Management (BLM) for years. The Bertonelis obtained ownership of the historic house. Was the building really significant? The staff was then tasked with doing background research

Staff made a determination on that the site was indeed a historic site and should remain on the Historic Sites Inventory (HIS). This determination was appealed to the Historic Preservation Board (HPB).

The HPB reviewed it, and agreed with staff’s determination – The site and structure are historic.

PS provided information for clarification at the time of the appeal.

PS- The applicants have submitted a report that was not heard by the HPB.

Appeals to the HPB can be heard by the Board of Adjustments stated in the LMC. This body may consider it but if you view the newly provided report the BOA could remand back to HPB to be heard again with this new information in hand. If you believe the information contained in the report is not substantial, you may consider this info and hear the appeal tonight.

AG – What would you all like to do? While I find their efforts towards the research commendable, I don’t personally think that it has relevance and the appeal should be heard tonight..

Bruce Baird (Applicant) - We would request it be remanded to the HPB –My clients didn’t understand the meeting with the HPB, they weren’t prepared. They want to return to HPB more prepared. If everyone agrees, we would like to return to HPB.

RM- I would like to speak to that. The HPB probably has more expertise in this type of decision. I’m not sure how carefully we have to step around this line as far as introducing new evidence. I think what they presented is different from what the HPB heard. I have no problem sending this back to HPB.

HF – New facts, are noted; after reading through the report again, I think the HPB would be interested in reviewing this report again. They are the experts here, more so than us. I think there is a lot of material that HPB has not yet heard.

JF – I agree that the amount of research here justifies sending this back to the HPB

RG – Should I open for public hearing?

PS- Not necessary.

RM- If they go back to HPB and they rule that it’s significant; do they still have the opportunity to appeal again here at the BOA?

PS- Yes. You are not taking a position on this appeal at this time. Your decision tonight is simply whether to remand back to HPB.

RG- May I have a motion?

RM- I move to remand the appeal back to HPB to look over the new evidence properly.

HF – Seconded.

MOTION CARRIED UNANIMOUSLY.

Meeting adjourned at 5:18 PM

DRAFT

Board of Adjustment Staff Report



PLANNING DEPARTMENT

Application #: PL-14-02297
Subject: 129 Main Street
Author: Anya Grahn, Historic Preservation Planner
Date: June 17, 2014
Type of Item: Variance

Summary Recommendations

Staff recommends that the Board of Adjustment review the proposed variance, conduct a public hearing, and consider granting a variance to the required ten foot (10') minimum horizontal step in the downhill façade for the third (3rd) story of a structure, that is required unless the First Story is located completely under the finished Grade on all sides of the Structure. Staff's recommendation is based on the findings of facts and conclusions of law as outlined in this report.

Staff reports reflect the professional recommendation of the Planning Department. The Board of Adjustment, as an independent body, may consider the recommendation but should make its decisions independently.

Description

Applicant: Jeff Creveling, Owner
Location: 129 Main Street
Zoning: Historic Residential (HR-2, Subzone B) District
Adjacent Land Uses: Residential single-family dwellings
Reason for Review: Variances require Board of Adjustment Approval

Proposal

The applicant is requesting a variance to the required ten foot (10') minimum horizontal step in the downhill façade for the third (3rd) story of a structure, given that the First Story is not completely under the finished Grade on all sides of the Structure. Due to the hardships imposed on the site due to the substandard size of the lot, there are unique circumstances on this site that limit the size of development and prohibit design consistent with surrounding historic sites without seeking a variance. See Exhibits A, B, and C for an existing conditions survey, a preliminary site plan, and photographs of the site.

Purpose

The purpose of the Historic Residential (HR-2, Subzone B) District is to:

- A. allow for adaptive reuse of Historic Structures by allowing commercial and office Uses in Historic Structures in the following Areas:
 - 1) Upper Main Street;
 - 2) Upper Swede Alley; and
 - 3) Grant Avenue,

- B. encourage and provide incentives for the preservation and renovation of Historic Structures,
- C. establish a transition in Use and scale between the HCB, HR-1, and HR-2 Districts, by allowing Master Planning Developments in the HR-2, Subzone A,
- D. encourage the preservation of Historic Structures and construction of historically Compatible additions and new construction that contributes to the unique character of the Historic District,
- E. define Development parameters that are consistent with the General Plan policies for the Historic core that result in Development that is Compatible with Historic Structures and the Historic character of the surrounding residential neighborhoods and consistent with the Design Guidelines for Park City's Historic Districts and Historic Sites and the HR-2 regulations for Lot size, coverage, and Building Height, and
- F. provide opportunities for small scale, pedestrian oriented, incubator retail space in Historic Structures on Upper Main Street, Swede Alley, and Grant Avenue,
- G. ensure improved livability of residential areas around the historic commercial core,
- H. encourage and promote Development that supports and completes upper Park Avenue as a pedestrian friendly residential street in Use, scale, character and design that is Compatible with the historic character of the surrounding residential neighborhood,
- I. encourage residential development that provides a range of housing opportunities with the community's housing, transportation, and historic preservation objectives,
- J. minimize visual impacts of the automobile and parking by encouraging alternatives parking solutions,
- K. minimize impacts of Commercial Uses on surrounding residential neighborhood.

Additional Applications

A Historic District Design Review (HDDR) application is being reviewed concurrently with this application to ensure compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009. Staff is reviewing the final design, included as Exhibit A. The Planning Commission approved a Steep Slope Conditional Use Permit (CUP) on May 14, 2014.

Background

This property is Lot 8, Block 13 of the Park City Survey. Historically, there was a large two (2) story single-family residence on this lot; however, due to its dilapidated condition, the house was demolished in the 1980s. Due to the lot's substandard size, the applicant requested a variance to the required lot size from 1,875 square feet to 1,208.5 square feet. This variance was approved by the Board of Adjustment in 2005. In 2007, the previous owner of the property submitted a Historic District Design Review (HDDR) application to construct a new single-family residence on this site; this application was put on hold while the applicant worked through the necessary variances. Two (2) years later, the property was sold to the present owner, Jeff Creveling, who had served as the architect/developer for the previous applicant. Mr.

Creveling requested a second variance to reduce the required front, rear, and side yard setbacks in 2007, which the BOA approved. A third variance was requested for a variance to the maximum footprint as well as a special exception to staircase height in the front yard setback, and the BOA denied the request. The applicant appealed this denial to district court; in August 2011 the court upheld the denial of the footprint variance but overturned the denial for the special exception for the staircase height.

In January 2008, the applicant submitted a steep slope conditional use permit (CUP); however, this application expired in 2011 due to the submittal not meeting the requirements of the Land Management Code.

Following the district court's determination, the applicant submitted a second Historic District Design Review (HDDR) application on January 9, 2014. This application was deemed complete on January 24, 2014. Staff has reviewed and provided comment on several revisions in order for the design to comply with the Design Guidelines for Historic Districts and Historic Sites.

On February 5, 2014, the City received an application for a Conditional Use Permit (CUP) for "Construction on a Steep Slope" at 129 Main Street. The application was deemed complete on March 24, 2014. The property is located in the Historic Residential (HR-2, Subzone B) District. Because the total proposed single-family structure is greater than 1,000 sf, and construction is proposed on an area of the lot that has a thirty percent (30%) or greater slope, the applicant is required to file a Conditional Use Permit (CUP) application. The CUP was required to be reviewed by the Planning Commission, pursuant to LMC §15-2.3-7, and the Planning Commission approved the Steep Slope CUP on May 14, 2014.

The lot is a vacant, platted lot with existing grasses and little other vegetation. The lot is located between the historic landmark Alaskan house at 125 Main Street and historically significant David McLaughlin House at 133 Main Street. There are additional historic houses located across the street at 122 and 140 Main Street that contribute to the high concentration of locally designated landmark and significant historic structures in this neighborhood. There are no existing structures or foundations on the lot; however, the roof of the historic structure at 133 Main Street encroaches into the property at 129 Main Street. Utility services are available for this lot.

Analysis

The property is located in the HR-2, Subzone B zoning district and is subject to LMC Section 15-2.2-5 Building Height. Land Management Code (LMC) changes made in November 2013 mandated that the required ten foot (10') horizontal step to occur at a maximum height of twenty-three feet (23'). In order to resolve the hardships related to the site constraints of this lot, the applicant is now requesting a variance to the ten foot (10') minimum horizontal step in the downhill façade that is required for a third (3rd) story of a structure unless the first story is completely under the finish grade on all sides of the structure.

The applicant is requesting this variance to address issues related to a hardship created by the encroachment as well as the size of the lot. The BOA previously granted the applicant two (2) previous variances allowing a variance to reduce the required lot size from 1,875 square feet to 1,208.5 square feet as well as reductions to the front, rear, and side yard setback. A third variance for an increased footprint was requested and denied; however, the district court permitted a special exception for the staircase height in the front yard setback.

The proposed house contains a total of 1,709 sf of floor area, including a garage of approximately 257.45 square feet. The proposed building footprint is 533 sf, which is less than the maximum permitted based upon the 1,208.5 sf lot size of 564.58 sf. The house complies with all setbacks and building footprint requirements determined by the 2005, 2007, and 2008 variances and the special exception.

129 Main Street, or Lot 8 of Block 13 of the Park City Survey has dimensions of 25 ft. along Main Street (east property line), 45.09 ft. along the south, 25.83 ft. along the west, and 51.59 ft. across the north property line. It contains 1,208.5 sf of lot area, as permitted in the 2005 BOA variance to reduce the required lot size. The same LMC requirements and standards apply to this lot as apply to all lots of this size in the same district, including those not encumbered by a substandard lot size; however, previous variances have reduced the front, rear, and south side yard setbacks. The maximum building footprint allowed for a Lot of this size is 565 square feet; the applicant is proposing a building footprint of 533 square feet. The total building pad is approximately 714 square feet.

The proposed house will meet the 27 foot height restriction. The allowable building footprint based on the size of the entire platted lot (1,208.5 sf) is 565 sf; the applicant is proposing a footprint of 533 square feet.

Due to the small size of the lot and the corresponding smaller footprint of the house, the loss of an additional ten feet (10') along the front of the house for the horizontal step on the third (3rd) level would create additional hardship on the property owner and result in a loss of approximately 178.73 square feet of the third floor or thirty-four percent (34%) of the total area of the third (3rd) level, 517 square feet. The ten foot (10') horizontal step would also reduce the overall square footage of the entire house (1,709 sf) by approximately ten percent (10%). On a typical twenty-five foot (25') by seventy-five foot (75') lot, the ten foot step would reduce the third (3rd) floor of a house by approximately 190 square feet (29%) and the overall square footage of the entire house by eight percent (8%).

As previously noted, staff has been working closely with the applicant to develop a design that is consistent with Park City's Design Guidelines. At this time, the applicant is proposing to construct a three (3) story townhouse totaling approximately 1,709 square feet. Staff finds the design is much more in keeping with the historic district and the neighborhood. The neighboring properties are historic, locally-designated landmark and significant structures. These houses create a rhythm and pattern for the street, and

the proposed design without the step for 129 Main Street is in keeping with this pattern. As shown in Exhibit F, the structure will have a front gable, facing Main Street, with a sub-surface garage entrance on the lower level. The garage will sit approximately 18 feet from the front property line and will be tucked approximately 8 feet behind the projecting two (2)–story gable above. The surrounding historic structures do not have a ten foot (10') minimum setback at 23 feet, and staff finds that this setback will create an incompatible design that disrupts the overall look and feel of the historic neighborhood.

The new design is in keeping with the Historic District Design Guidelines. The building and site design will respect the existing topography and the exterior elements of the new development—roofs, entrances, eaves, porches, windows and doors, and garage—are of human scale and are compatible with neighboring historic sites and the neighborhood. Furthermore, the scale and height of the new structure follows the predominant pattern of the neighborhood, while respecting existing historic sites.

Criteria to Grant Variances

In order to grant each of the requested variances to the aforementioned code sections, the Board of Adjustment must find that all five (5) criteria located in LMC § 15-10-9 for each request are met. The Applicant bears the burden of proving that all of the conditions justifying a variance have been met.

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 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 size of this property has created a special circumstance attached to this property that is not generally applied to other properties in the same zone. As previously noted, the property received a variance in 2005 to reduce the required lot size from 1,875 square feet to 1,208.5 square feet.

Staff finds that requiring the ten foot (10') horizontal step on the third (3rd) floor based on the literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code. The ten foot (10') step was introduced in order to limit the mass and bulk of structures on hillsides and prevent a wall effect along the streetscape. The lot at 129 Main Street is an uphill lot that plateaus in the center. Because of the small size of the lot, new development is not required to step up the hillside as much of the bulk and mass of the house is hidden by the façade. Rather, the ten foot (10') horizontal step

would alter the pattern and rhythm of the existing streetscape which consists of wide two (2) story hall-parlor houses and the Alaskan House, which is three (3) stories in height.

Further, the step would significantly impact the property owners' essential enjoyment of a substantial property right by reducing the size of an already small house by ten percent (10%). As previously noted, the ten foot (10') horizontal step on the third level will reduce the overall square footage of this level by thirty-four percent (34%) or 178.73 sf. The allowed footprint for this structure on a lot this size is approximately 565 square feet, though the applicant is proposing a footprint of 533 square feet. The total square footage of the house, as proposed and not including the ten foot (10') horizontal step is 1,709 square feet. As proposed, the house is a two (2) bedroom home; however, the required step would reduce the house to a one (1) bedroom home.

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.*

The 2005 BOA variance to reduce the required lot size from 1,870 square feet to 1,208.5 square feet took into consideration the unusual configuration of the lot. The dimensions of the lot are 25 ft. along Main Street (east property line), 45.09 ft. along the south, 25.83 ft. along the west, and 51.59 ft. across the north property line. The front portion of the lot is relatively flat; however, there is a steep slope of over thirty percent (30%) in the rear yard.

As previously described, there are special circumstances attached to the Property due to its small size. This neighborhood is unique in that it is a transitional residential portion of Main Street that creeps up the hill to converge with Park Avenue. This neighborhood is characterized by the locally designated landmark and significant structures that were constructed on smaller lot sizes. Built prior to the advent of cars and exempt from parking due to their historic status, these structures are not required to provide on-site parking. Further, many of these historic structures have much larger building pads than would be allowed for today's new developments. In addition to the reduced side yard setbacks, a number of these structures encroach over the property lines and onto neighboring properties, which is typical of Old Town.

Granting a variance to the required ten foot (10') minimum horizontal step back lessens impacts of the hardship by allowing additional building area to make up for the limited lot size and allows the property owner privileges granted to other Properties in the same zone. Further, it helps maintain the overall rhythm and pattern of the street.

Criteria 3. Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.

Granting a variance to the minimum ten foot (10') horizontal step on the third (3rd) level is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. By waiving the required step in the third (3rd) level, the property owner will be able to gain additional square footage on a lot that has already been severely burdened by its size. This, in turn, will allow the property owner to enjoy a larger house size similar to his neighbors in the same zone.

Criteria 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.

A variance to the ten foot (10') horizontal step on third (3rd) level will not substantially affect the General Plan and will not be contrary to the public interest. The setbacks facilitate a design that is consistent with the Design Guidelines and is compatible with the surrounding historic structures and not contrary to the public interest.

The goals of the General Plan include maintaining the character, context, and scale of local historic districts with compatible infill development and additions. As proposed, this design reflects the traditional front gable façade that is so evident in cityscapes of Park City. The overall style and character of the design relates to the neighboring "Landmark" historic structure at 125 Main (Alaskan House) and "Significant" historic structure at 133 Main Street, while not detracting from it.

Further, the design without the ten foot (10') step on the third (3rd) level of the façade does not violate the overall rhythm and pattern of the streetscape. The proposed design is consistent to the predominant pattern of the neighborhood, with special consideration given to historic sites, in terms of scale and height, exterior elements such as roofs, windows, and door. The facades of these houses create a pattern and rhythm on the west side of Main Street. As proposed, the design for 129 Main Street relates to the overall height, scale, and design of neighboring infill developments.

Criteria 5. The spirit of the Land Management Code is observed and substantial justice done.

Land Management Code (LMC) 15-2.2-5(B) states that a ten foot (10') minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finished Grade on all sides of the Structure.

This amendment to the LMC was first approved by Ordinance 09-14 in 2009. The intent of this provision was to address the issue of the large mass and scale of new development and additions to historic structures. Staff studied the dramatic impact of volumes above grade and how residential structures could be design to better integrate into the community in order to maintain the look and feel of Park City's historic district. This amendment came about in order to address issues of stepping up and down slopes to prevent the appearance of massive floor plates.

The step will diminish the allowable square footage of the already small house. Stepping development on slopes is necessary in order to reduce the bulk and mass of the structure; however, as proposed, the massing of the already small structure has been broken up by projecting box bays, porch entrances, and varying wall and roof planes. As designed, the façade of this house will not create a wall effect on Main Street, but rather reinforce the existing rhythm of the street.

Process

If the variance requests are approved, the applicant can continue to move forward with his full Historic District Design Review utilizing the setbacks, stair height, and ten foot (10') horizontal third (3rd) floor step variances granted by the Board of Adjustment. Staff review of Building Permits is not publicly noticed unless appealed. The approval of this variance request by the Board of Adjustments constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13.

Department Review

This application has gone through an interdepartmental review. No further issues were brought up at the time.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The property owner would be required to provide a ten foot (10') horizontal step on the third (3rd) level. This step would result in a loss of approximately thirty-four percent (34%) of the third (3rd) level as well as a reduction in the overall square footage of the house by ten percent (10%). The step will take away one bedroom of the home, limiting the house to a one (1) bedroom home.

Recommendation

Staff recommends that the Board of Adjustment review the proposed variance, conduct a public hearing, and consider granting a variance to the required ten foot (10') horizontal step on the third (3rd) floor. Staff's recommendation is based on the following findings of facts and conclusions of law.

Findings of Fact (for Staff recommendation)

1. The property is located at 129 Main Street.
2. The property is described as Lot 8, Block 13 of the Park City Survey. It measures 25 along Main Street (east side), 45.09 feet across the south property line, 26.83 feet across the west (rear) property line, and 51.59 feet across the north property line.
3. This is a substandard lot that contains 1,208.5 square feet. The allowable building footprint is 565 sf for a lot of this size. The proposed building footprint is 533 sf.
4. The site is not listed as historically significant on the Park City Historic Sites Inventory and there are no structures on the lot.
5. The property is located in the HR-2, Subzone B, zoning district, and is subject to all requirements of the Park City Land Management Code (LMC) and the 2009 Design Guidelines for Historic Districts and Historic Sites.
6. The Board of Adjustment (BOA) granted a variance to the required lot size in 2005, reducing the minimum lot size from 1,875 to 1,208.5 square feet for this property.
7. In 2007, the BOA approved a variance to reduce the required setbacks to 1'6" on the south (side) yard, 6'8" on the east (front) yard, and 6'10" on the west (rear) yard.
8. In 2008, the BOA denied a request for a variance to the maximum allowed footprint as well as a special exception to the staircase height in the front yard setback. The applicant appealed this determination to District Court; the court upheld the denial of the footprint variance, but overturned the BOA's denial for the special exception to construct a staircase eight feet (8') in height within the front yard setback.
9. Access to the property is from Main Street, a public street. The lot is an uphill lot.
10. Two (2) parking spaces are proposed on site. One space is proposed within an attached garage and the second is on the driveway in a tandem configuration to the garage.
11. The neighborhood is characterized by primarily historic and non-historic single family, duplex, and boarding houses.
12. A Historic District Design Review (HDDR) application is under review by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
13. The lot is an undeveloped lot containing primarily grasses, weeds, and shrubs that are not classified as significant vegetation.
14. The roof of the historic structure at 125 Main Street encroaches over the north property line and on to 129 Main Street.
15. The proposed design is a single family dwelling consisting of approximately 1,709 square feet of total area (including the 252 sf single car garage) with a proposed building footprint of 533 sf.
16. The driveway is proposed to be 18 feet in length from the edge of the front property line to the garage in order to place the entire length of the second parking space entirely within the lot. The garage door complies with the maximum width and height of nine feet (9').

17. The proposed structure complies with all setbacks, outlined by the 2008 variance.
18. The proposed structure complies with allowable height limits and height envelopes for the HR-2B zoning as the three (3) story house measures no more than 27 feet in height from existing grade, and the structure is less than the maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.
19. The proposal, as conditioned, complies with the Historic District Design Guidelines as well as the requirements of 15-5-5 of the LMC.
20. The applicant is requesting this variance to address unreasonable hardships facing this property owner due to the small lot size and in order to create a design that is more compatible with the rhythm and pattern of the streetscape.
21. Granting of the variance to waive the required ten foot (10') horizontal step on the third (3rd) level of the facade allows the applicant similar property rights as other property owners in the district. The ten foot (10') horizontal step on the third (3rd) level will reduce the overall square footage of this level by nearly thirty-four percent (34%) and reduce the overall square footage of the house by ten percent (10%).
22. On a typical twenty-five foot (25') by seventy-five foot (75') lot, the ten foot horizontal step at twenty-three feet (23') would reduce the third (3rd) floor of a house by approximately 190 square feet (29%) and the overall square footage of the entire house by eight percent (8%).
23. The allowed footprint for this structure is approximately 565 square feet. The total square footage of the house, as proposed and not including the ten foot (10') horizontal step, is 1,261.83 square feet. As proposed, the house is a two (2) bedroom home; however, the required step would reduce the house to a one (1) bedroom home.
24. The intent of the ten foot (10') horizontal step on the third (3rd) floor was to prevent the appearance of massive floor plates on steep slopes; however, the property at 129 Main Street is relatively flat except at the rear portion of the property. As proposed, the design meets the goals of the General Plan in that the design reflects traditional Park City patterns, character, and site design in order to ensure that new construction is architecturally-compatible to the existing historic character of Park City.
25. Land Management Code (LMC) 15-2.2-5(B) states that a ten foot (10') minimum horizontal step in the downhill façade is required for a third (3rd) story of a structure unless the first story is located completely under the finish Grade on all sides of the Structure. This amendment to the LMC was first approved by Ordinance 09-14 in 2009 with the intent to diminish the large mass and scale of new development and additions to historic structures and prevent a "wall effect" along the streetscape for sloped lots.
The step will not only diminish the allowable square footage of the already small house, but it will also break the pattern of the streetscape and cause an odd house. As designed, the façade of this house will not create a wall effect on Main Street but rather reinforce the existing rhythm of the existing streetscape

which consists of wide two (2) story hall-parlor houses and the Alaskan House, which is three (3) stories in height.

26. The unique situation with this small lot is its substandard size of 1,208.5 square feet, which was permitted by a BOA variance in 2005. Granting a variance to not include the ten foot (10') step will allow the applicant to gain additional living space in an already small house. Without the step, the total square footage of the house will be 1,709 square feet.
27. The requested variance to the stepping requirement is not contrary to the zoning district and addresses a hardship due to the small size of the lot.
28. The findings in the Analysis section are incorporated herein.

Conclusions of Law (Staff recommendation)

1. Literal enforcement of the HR-1 District requirements for this property 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.
7. Granting the variance would allow a design for a future house that is consistent with the purposes of the Design Guidelines for Historic Districts and Historic Sites.

Order (Staff's recommendation)

1. The variance to LMC § 15-2.2-5(B) –requiring a ten foot (10') minimum horizontal step in the downhill façade for a third (3rd) story of a structure unless the first story is located completely under the finish Grade on all sides of the Structure-- is hereby granted.
2. The variance runs with the land.

Conditions of Approval

1. A reciprocal snow shed agreement shall be recorded between the City and the applicant allowing for potential snow shedding onto platted, un-built Fifth Street ROW and allowing City snow storage within the front setback areas of the Lot.
2. Compliance with the Design Guidelines for Historic Districts and Historic Sites is a condition precedent to issuance of any building permits on the property.
3. The Historic District Design Review process may require adjustments to the structure that further limit the size of the structure.
4. The driveway width must be a minimum of ten feet (10') wide, and no more than twelve feet (12') wide.

Exhibits

- Exhibit A– Applicant's narrative
- Exhibit B– Aerial Photograph
- Exhibit C– Existing conditions survey
- Exhibit D – Preliminary site plan
- Exhibit E– HDDR plans
- Exhibit F – Neighboring Uses

Submission of a Proposed Variance

Planning Department, Park City, Utah

March 23, 2014

- I. APPLICATION:** Variance
- A. APPLICANT:** Harris J. Creveling
- B. REQUEST:** Variance to Building Height Limitation, 15-2.3-6(B)
- C. LOCATION:** 129 Main Street
- D. ZONING:** Historic Residential (HR-2) District

II. ANALYSIS:

The Applicant is requesting approval of a necessary and reasonable variance to the Land Management Code (LMC) in the Historic H-2 Zoning District. Applicant is an unreasonable hardship when complying with an aspect of the LMC that has been adopted while complying with all other aspects of the code. The applicant is proposing to construct a single family residence. The subject property is 1208 SF of unimproved land located at 129 Main Street along the west side; on the short block of upper Main where it the converts from commercial to residential. Every existing residence on this block has some form of non-conformity from small lot sizes, non-complying setbacks, encroachment or lack of parking which were approved during unknown prior administrations. None of the existing homes on the same block would be allowed under the current LMC. It has been recommended by the Park City Planning staff that a variance be granted allowing this strict interpretation of the code to be waived so the new building will be more compliant with the Historical District Design Guidelines.

There are many aspects to this lot that specific and do not apply to other lots in the same zone. The lot is exceptionally small. It is irregular in shape. The northerly neighbor's home encroaches over the property line. There is a discrepancy in the current lot lines to historic lot lines. There is a street line created by the historic structures that needs to be respected. The lot has a steep slope rear portion requiring anything to be built to apply for a conditional use permit. Two parking stalls are required per LMC that most homes on this portion of Main don't provide. And more.

Specific to this lot is that it is small. The minimum lot depth of the H-2 Zone is 75'. This property is between 42' and 53' deep or roughly 63% of minimum. 10' off of a normal minimum building footprint is 190 off of 1,045 or 18% whereas 10' off of this home's footprint is 196 off of 564 or 35% making this new setback a significant portion of this building; a marked difference.

The footprint calculation also creates hardship. This lot has a limit of 564sf for building footprint. This is smaller than the allowable building pad (area within the required setbacks) of 699sf. However the parking stall creation keeps the building moved toward the back of the lot. The front of the home is already 4' behind the front yard setback. The requirement for this new setback is to create front space. This building already is pulled back and to pull it back another 10 feet would be an unreasonable hardship.

The language of the code also creates confusion as to where the setback is to take place. Excepts of Section 15-2.3.6 (B) state "A ten foot (10') minimum horizontal step in the downhill facade is required..." and "The horizontal step shall take place at maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of exiting Grade". Since the working language of this code mentions the 'third floor' throughout it was meant to apply only to a third level. However, when codified,

Harris J. Creveling
Variance Request
129 Main Street



the term 'third floor' has been left out. Meaning a single floor that reaches the maximum height of 27' must be held back 10' less it not comply. Interpretation suggests a single level home can only be 23' maximum height at the front yard setback. This would be considered a hardship.

And to take this same concept forward but respecting the third floor criteria, had parking not been required so the building would be more historic in application with it's immediate neighbors there wouldn't be the need for a third floor. Exploring the location and elevation of a home on this site, the solution would situate it in the exact position as in this application with regard to height, orientation, setbacks, footprint, access, historic treatment and relationship. However, it wouldn't need to have the 'second floor' setback 10'. Meaning by meeting the code for parking the building is forced be built differently to follow another code section. That would be considered a hardship.

Lastly, since this application has started, in 2005, this section of the LMC has been introduced. It is a restriction which now places yet another hardship to the building as it winds through the planning process.

The proof of a hardship and the meeting of the 5 criteria for a variance application to be successful is the onus of the applicant. It is believed that this has been done.

III. FINDINGS OF FACT:

Variance criteria: Before approving a request for any variance, a Board of Adjustment shall make positive findings to *all* of a basic series of criteria. Listed below are generalized example criteria and discussions and findings of each for encouraging a staff recommendation of approval.

Criteria #1: *Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance. The Board of Adjustment shall not find an unreasonable hardship if the hardship is self-imposed or economic. To determine whether or not enforcement of the zoning ordinance would cause an unreasonable hardship, the Board of Adjustment shall not find an unreasonable hardship unless the alleged hardship:*

A. *Is located on or associated with the property for which the variance is sought; and,*

B. *Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*

Discussion: Literal enforcement of the Zoning Ordinance causes an unreasonable hardship by effectively prohibiting reasonable improvement of the subject property. The general purposes of the zoning ordinance has been rewritten and revised as a document in whole for the entire HD-2 zone. Compatibility is important for this property and there are already 4 homes with second levels that have similar street relationships.

The hardship is neither self-imposed nor economic. This hardship is associated specific to this property and is associated with a circumstance peculiar to the property.

Finding: Literal enforcement of the Zoning Ordinance causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.

Criteria #2: *There are special circumstances attached to the property that do not generally apply to other properties in the same district and relate directly to the hardship complained of:*

... ..
... ..
... ..



Discussion: Every other property in the immediate vicinity of the subject, and many within the same zoning district, have much smaller non-complying setbacks, are juxtaposed outside their building envelope and in some cases actually encroach onto neighboring properties. Many of the existing homes in the HR-2 Zoning District were constructed under previous Code wherein their setbacks or parking requirements were lesser or none. As shown by attachments, if an approved solution were to be built on this site, the resulting structure would appear physically and aesthetically out of place with its neighbors and neighborhood. It is only the need to meet the parking standard, raise a residence over that parking plan, then reasonably improve and utilize this specific site, that the need for variance are created.

Finding: There are special circumstances attached to this property that do not generally apply to other properties in the same district and relate directly to the hardship complained of.

Criteria #3: ***Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same district.***

Discussion: As stated in the discussion of Criteria #2 above, many of the existing homes in HR-2 are historic and were constructed under a previous code and two non-conforming structures have been improved since the adoption of both the LMC and Historic District Design Guideline (HDDG). Only under the adoption and adaptation of these ordinances did the current requirements get added, making most, if not all of those existing historic homes in HR-2 non-complying, but legal. With creation of this zone with so many non-complying structures is that, for any vacant property wishing to improve must find relief to the restrictions of the LMC to adapt.

The subject location, being part of the most visible of the historic portion of old town Park City and having no on-street parking, limited snow storage, preserved historic buildings, significant numbers of pedestrians, a steep slope and a narrow road prohibit make it a challenge to comply with requirements that have come along since the others have been built. This site, despite being unduly hardshipped, can meet the intent of the ordinance with this very reasonable adjustment to setback.

Finding: Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same district.

Criteria #4: ***The variance will not substantially affect the General Plan and will not be contrary to the public interest:***

Discussion: Improvement to the vacant subject property, wherein the proposed use is either allowed by condition or permitted, is in the best interest of the city as a whole and is not contrary to public's interest. The intent of the Historic HR-2 District in the general plan is to maintain a Park City heritage when improvement is considered to be an ideal land use. As a means to establish appropriate massing, exception to the building height are subject to approval based on a determination that the proposed exception result in a solution that provides increased architectural interest consistent with the historic district. This "height" isn't really a height concern as it is applied for this site but rather a setback. The height for HR-2 is actually much lower than the majority of the old town portion of Park City and this maximum height restriction is respected. This subject is not applying for relief to this lower maximum height. However, to respect this intent and to maintain the current horizontal and vertical building articulation identified by the existing "Main Street" vernacular relief to the setback is necessary.

100 Main Street
Variance Request
100 Main Street



If the proposed Subject home is allowed to be oriented physically and aesthetically consistent with its neighbors and neighborhood, the intent of the General Plan will be met through the granting of this variance.

Finding: Variance will not substantially affect the General Plan and will not be contrary to the public interest:

Criteria #5: *The spirit of the Zoning Ordinance is observed and substantial justice done:*

Discussion: With regards to the LMC, it is the intent of a zoning ordinance to provide for a suitable amount of quiet enjoyment, which in turn ensures ideal streetscapes in old town Park City. The spirit of this ordinance with regards to the HR-2 Zone is to provide new development with adequate off-street parking within incompatible structures. The applicant believes there is nexus between forced constraints and adequate, appropriate limitations. If modest relief can be established on the property, it becomes redundant and unnecessary to restrict further. Particularly when the establishment of a requirement that the majority of improved sites in the zone cannot meet.

It is clear and accepted that there are many structures within HR-2 currently inconsistent with the restrictions of the ordinance. It should also be quite apparent from an historical preservation perspective that washing the landscape of these existing structures and rebuilding new under the guidelines as adopted is unlikely. It should be further agreed that as unimproved, the subject property shall only be improved under prudent guidance. This specific and particular property can meet the intent of the ordinance while respecting a Historical Heritage so crucial to the vitality of Main Street's long term legacy.

Finding: The spirit of the Zoning Ordinance is observed and substantial justice done:

IV. RECOMMENDATION:

Where every single property adjacent to and opposite the subject property are significantly juxtaposed to their lot boundaries, none meet minimum setbacks, less than 50% meet parking standards, the south neighbor shows two full level of living space and the north neighbor actually encroaches over the subject property; this requested variance, a modest relief, results in a solution consistent with its neighbors and neighborhood.

Sometimes, it is non-Zoning Ordinance aspects that control decision making. The HDDG provides an excellent text in the overall planning of Park City's Main Street and the old town district as well. This is exactly why a variance is so vital when respecting the coherence of property rights and public administration. Park City staff should recommend to the Board of Adjustment approval of the Applicant's variance request for a decrease to the height limitation in the HR-2 Zoning District for the property located at 129 Main. A Board of Adjustment approval of a variance does not constitute approval of a building permit, nor does it constitute approvals from the Fire, Building & Safety, or Engineering Departments, who may require further site conditions at the time of application of a building permit or during construction.

V. ATTACHMENTS

Site Plan and Landscape Plan
Drawings, Proposed Building Plans, Section and Elevations, Streetscape, W/O Parking
Computer Model of Street
Title Report
Property Owners List, Stamped Envelopes

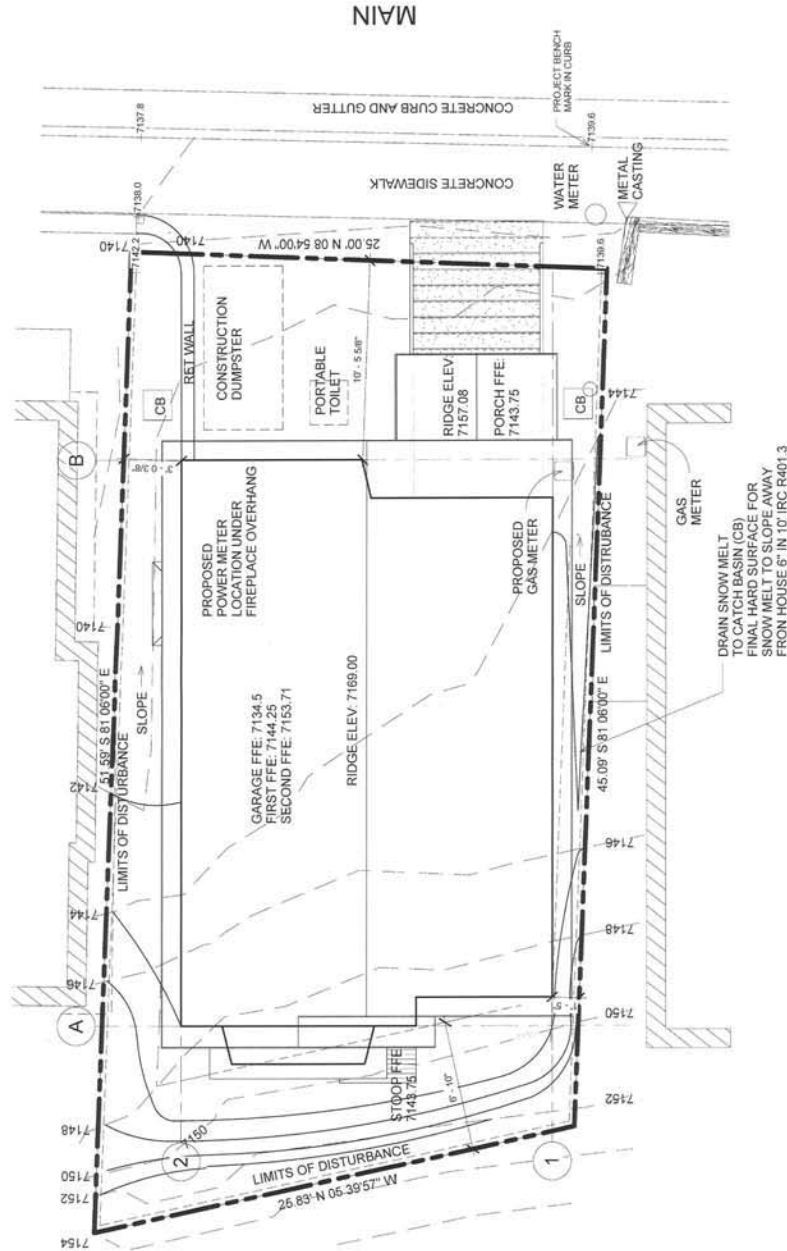
Site Plan
Landscape Plan
Drawings
Computer Model
Title Report
Property Owners List





Date 1/20/2014 10:26:49 PM	B.T. HARRIS Inc. oCADD DRAFTING 4109 SOUTH 1400 EAST SALT LAKE CITY, UTAH 84124 801.694.1003	Owner Harris J. Creveling 4096 Mars Way SLC, UT 84124 801.856.7837	New Residence Old Town Lot 8, B13 129 Main, Park City, Utah 84060	SHEET # A1.3
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1. SURFACE WATER SHALL DRAIN AWAY FROM THE PROPOSED LOT BY DRAINAGE TO THE STREET OR TO AN APPROVED DRAINAGE COURSE BUT NOT ONTO NEIGHBORING PROPERTIES. THE GRADE SHALL FALL A MINIMUM OF 6 INCHES WITHIN THE FIRST 10 FT.
2. PROVIDE A PERIMETER FOUNDATION DRAIN. DRAINED TO AN APPROVED LOCATION. PROPOSED SHOWN ON PLAN.



1 Site Plan
1/4" = 1'-0"

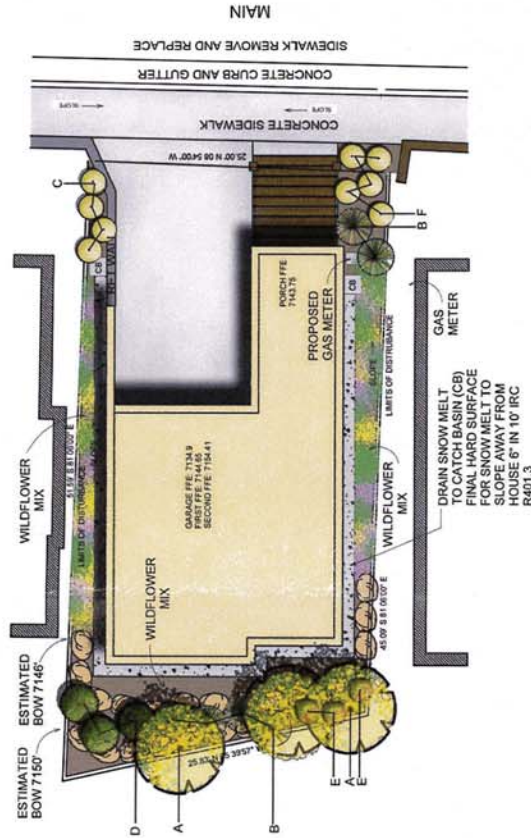




NEW RESIDENCE
OLD TOWN LOT 8, B13
129 MAIN, PARK CITY, UT 84060



LANDSCAPE PLAN



GRAPHIC SCALE



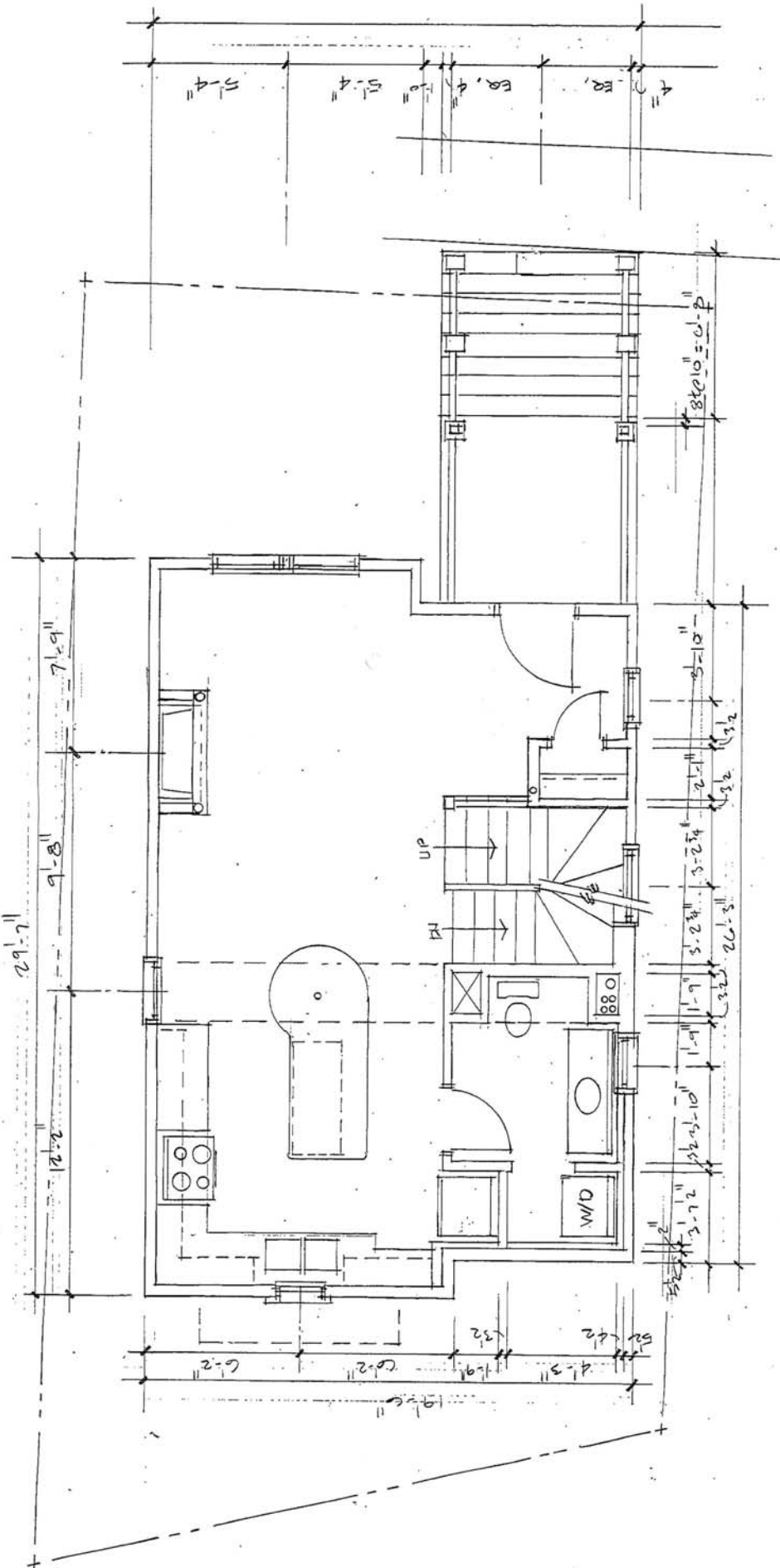
(IN FEET)
1 inch = 10 ft.

PLANT SCHEDULE			
SYM	BOTANICAL NAME	COMMON NAME	QTY/ SIZE
A	Populus tremuloides	Quaking Aspen	3 2" cal
SHRUBS			
B	Pinus mugo 'Wells Green Alps'	Wells Green Alps	6 5 gal
C	Potentilla fruticosa 'Red Ace'	Red Ace Potentilla	4 2 gal
D	Symphoricarpos opacifolius	Mountain Snowberry	3 5 gal
PERENNIALS			
E	Aquilegia canadensis	Wild Red and Yellow Columbine	3 1 gal
F	Hymenoxys acaulis var. alisonica	Sol Dancer Tetaneurs	5 1 gal
NOTE: -ADDITIONAL GROUND COVER OF CREEPING PHLOX AND MAHONIA REPENS CAN BE ADDED AS NEEDED IN ROCK WORK			

LANDSCAPE NOTES

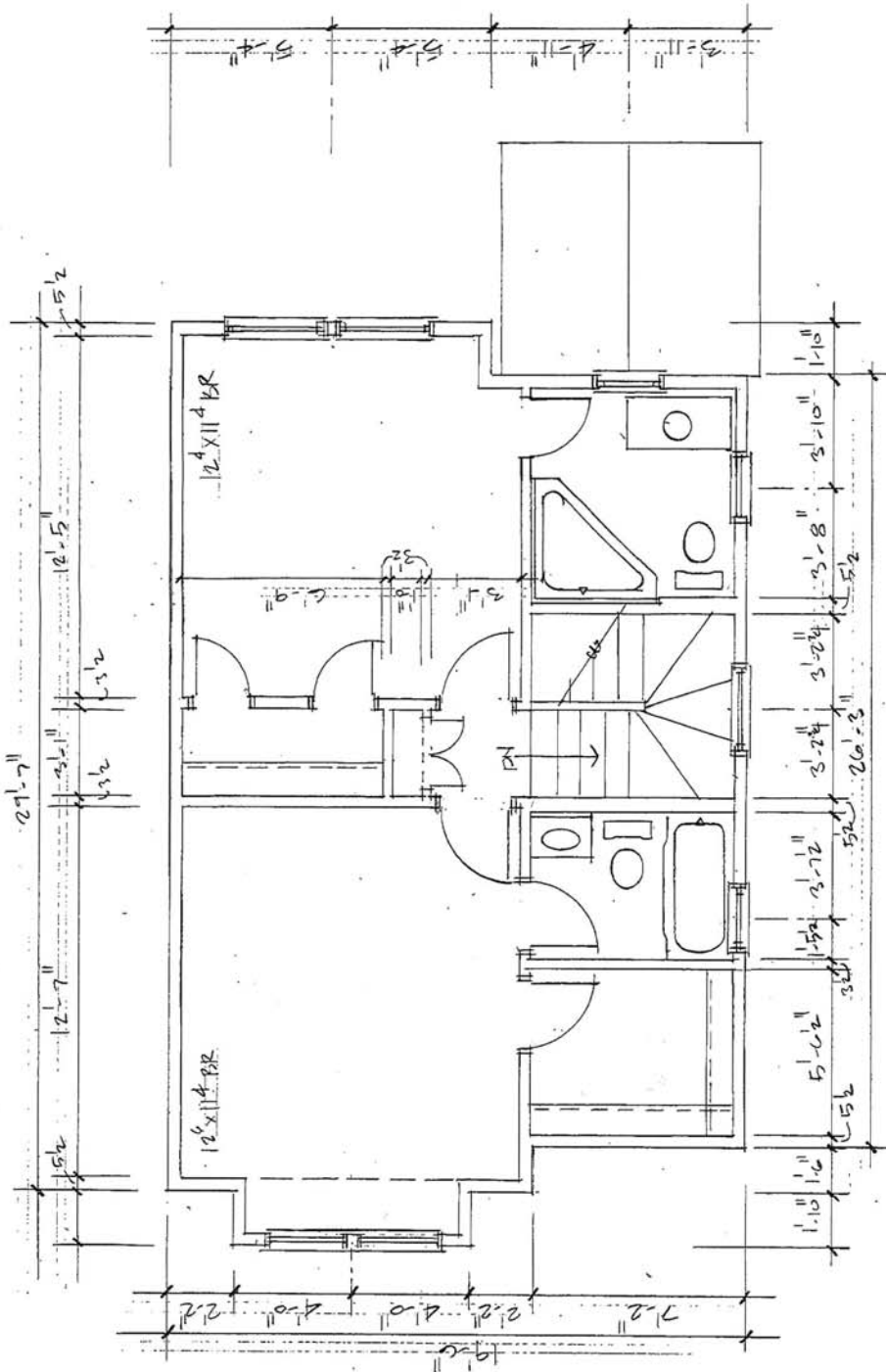
1. LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR VERIFYING QUANTITIES OF ALL MATERIALS AND ELEVATIONS FOR BIDDING AND INSTALLATION PURPOSES. IF DISCREPANCIES EXIST, THE PLAN SHALL DICTATE.
2. SANDY LOAM TOPSOIL TO BE IMPLEMENTED AT THE FOLLOWING DEPTHS: 6" TOPSOIL (WITH 2" HUMUS MIXED INTO TOPSOIL PRIOR TO SPREADING) ALL NEW PLANTER AREAS AND 4" IN ALL NEW LAWN AREAS. PLANTER BEDS TO BE EXCAVATED AS NECESSARY IN ORDER TO REMOVE DAYLILY AND SALT CONTAMINATED SOIL. NEW TOPSOIL AND/OR BARK MULCH TO REACH FINISHED GRADE.
3. SHREDDED BARK MULCH TO BE IMPLEMENTED AT THE FOLLOWING DEPTHS: 3" IN ALL TREE AND SHRUB PLANTER AREAS. PULL BARK MULCH MIN. 3" AWAY FROM BASE OF ALL PERENNIALS AND SHRUBS AND MIN. 6" AWAY FROM ALL TREES.
4. ALL DISTURBED AREAS TO BE REESTABLISHED WITH ROCKY MOUNTAIN WILDFLOWER SEED MIX FROM GRANITE SEED.





RECEIVED
MAR 26 2014
PARK CITY
PLANNING DEPT.

MAIN FLOOR

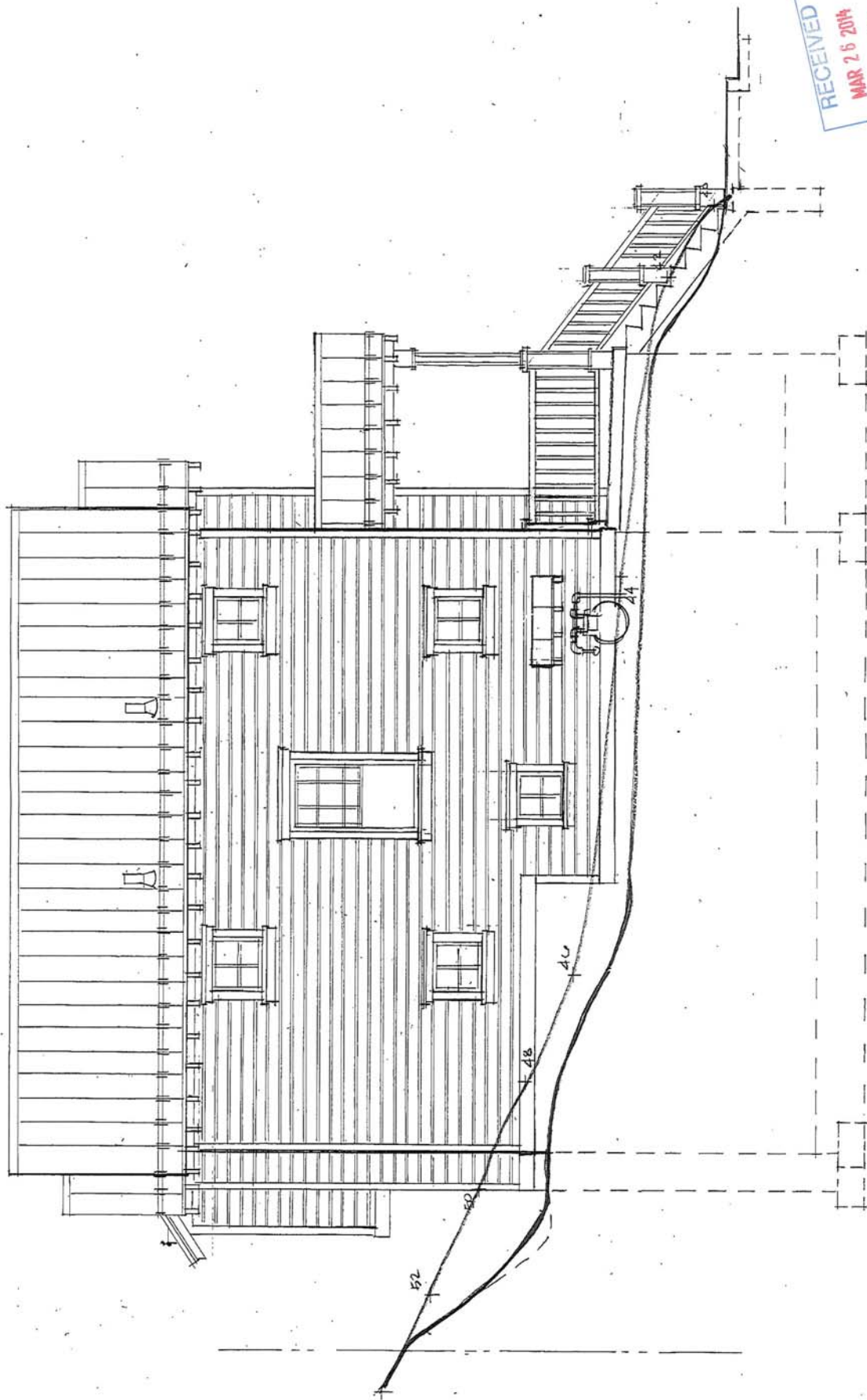




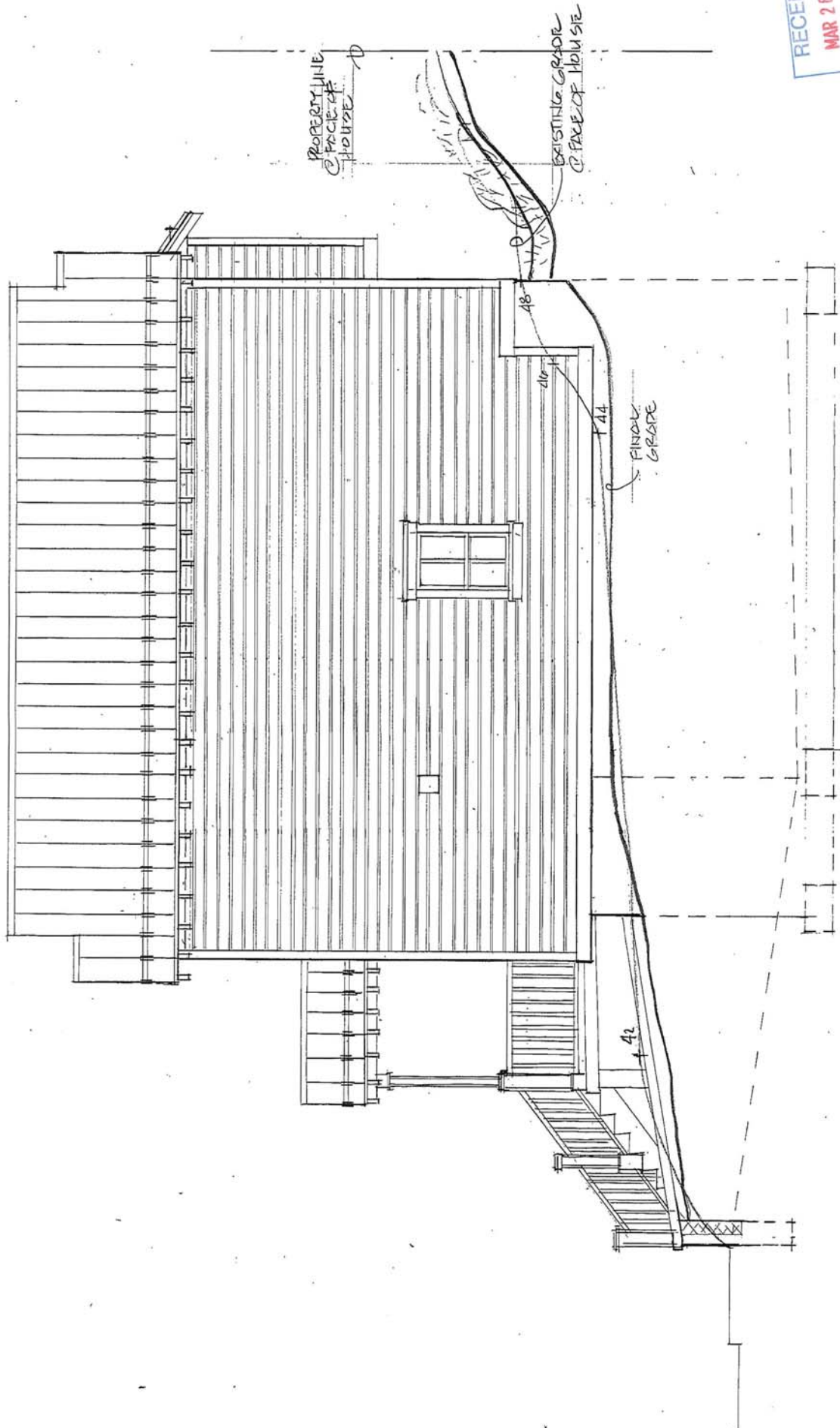
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MAR 26 2014
BASKIN CITY
PLANNING DEPT

EAST & WEST ELEVATIONS

SOUTH ELEVATION



NORTH ELEVATION



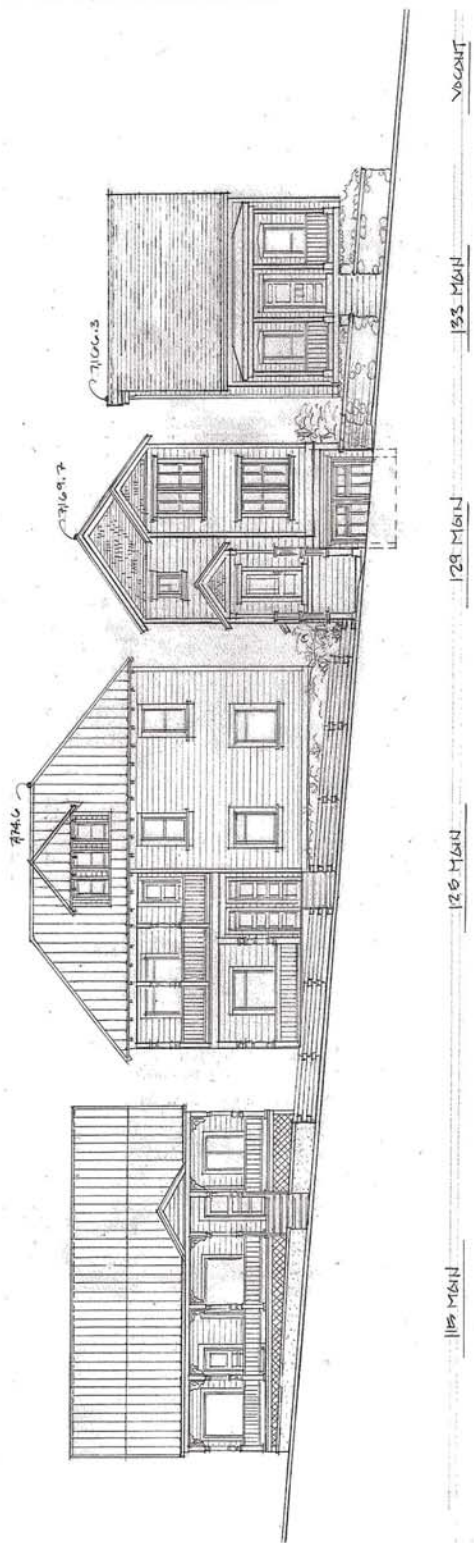
RECEIVED
MAR 26 2014
PARK CITY
PLANNING DEPT.

1/2
1/4
1/8
1/16



STREETSCAPE ELEVATION
129 MAIN
PARK CITY, UTAH

RECEIVED
MAR 26 2014
PARK CITY
PLANNING DEPT.



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





