

**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL
April 15, 2014**



AGENDA

MEETING CALLED TO ORDER - 5:00 PM

ROLL CALL

ADOPTION OF MINUTES OF March 18, 2013

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*

632 Deer Valley Loop – Appeal of Historic Preservation Board's determination PL-13-02160
of historical significance of the site. *Planner Grahm*
Quasi-Judicial hearing

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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.

PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
MINUTES OF MARCH 18, 2014

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Hans Fuegi, Richard Miller, Jennifer Franklin, Mary Wintzer

EX OFFICIO: Thomas Eddington, Anya Grahn, Polly Samuels McLean, Makena Hawley

ROLL CALL

Chair Gezelius called the meeting to order at 5:06 p.m. and noted that all Board Members, including Alternate Jennifer Franklin were present.

ADOPTION OF MINUTES OF NOVEMBER 19, 2013.

MOTION: Board Member Fuegi moved to Approve the minutes of November 19, 2013 as presented. Board Member Miller seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There was no comment.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

Director Eddington announced that the General Plan was approved by the City Council. The Staff would be reaching out to other Boards and Commissions to see if the members wanted hard copies of the General Plan or if they preferred to utilize the online version. They should expect to receive emails regarding that issue. Director Eddington noted that the General Plan ended up being two volumes. The first volume is the primary volume and has 110 pages. The second volume is larger and contains the research data and analysis.

Director Eddington stated that relative to Rod Ludlow's resignation, the replacement interviews should be finalized this week. Any of the Board members who are re-applying and have not been contacted by Makena Hawley should talk with Director Eddington at the end of this meeting. The Staff was trying to coordinate with the City Council on Thursday.

Board Member Miller recalled that a year ago the Board of Adjustment approved a variance for the Main Street Mall. As one of the conditions of the variance the Staff was supposed to analyze whether or not the project should fall under the

guidance of the affordable housing stipulation. He asked if that analysis was done since the project was being built, and what was the conclusion. Board Member Miller wanted to know who follows up on the conditions stipulated in an approval to make sure they are reviewed and enforced. He had heard nothing about an affordable housing component to the Main Street Mall project.

Director Eddington believed it had been resolved. He offered to follow up on the conclusion and report back to Board Member Miller.

Chair Gezelius recalled that another condition on the project was that the construction would not be staged from Park Avenue. In the event that the discussion comes forth at a different level, she hoped they would be reminded of the conditions placed by the BOA. Director Eddington replied that the City Council had also discussed that issue. He emphasized that the applicant was not talking about having staging on the back side.

CONTINUATION(S)

632 Deer Valley Drive – Appeal of Historic Preservation Board determination (Application #PL-13-02160)

Planner Anya Grahn stated that the Staff has been working with the property owners of 632 Deer Valley Loop for several months. The Staff presented a determination of significance to the Historic Preservation Board in November. The applicant chose to appeal the HPB determination that the site is significant. This item has been continued several times for various reasons. The reason for requesting a continuance this evening was that the property owner had consulted with legal counsel and they wanted to give their attorney the opportunity to review it before moving forward.

Planner Grahn requested that the Board continue the item to April 15th.

MOTION: Board Member Miller moved to Continue the 632 Deer Valley Drive appeal to April 15, 2014. Board Member Fuegi seconded the motion.

VOTE: The motion passed unanimously.

REGULAR MEETING – Discussion, Public Hearing and Possible Action

488 Marsac – Variance application (Application #PL-13-02176)

Planner Grahn stated that the Board of Adjustment has seen this variance before and they should be familiar with it. The applicant was requesting a variance to the required 10' horizontal step that occurs on the third floor of the façade as it

steps downhill. There is an exception to requiring the third floor to have a step if the first story is located completely under finished grade on all sides. However, in this case the basement is partially above ground.

Planner Grahm provided a brief background. On May 18th, 2004 the Board of Adjustment met with the previous owner of this property who, at that time, was requesting a height exception to build a house 33-1/2 feet in height. The application was eventually withdrawn and the property was sold to the current owner, Alexis Gevorgian. Planner Grahm reported that on August 27, 2013, another variance was presented to the Board of Adjustment, at which time the Board approved a two-foot setback on the north side yard with a minimum of a one-foot setback. They also reduced the parking from two spaces to one space.

Planner Grahm stated that the Staff has been working with the applicant and they continued to make revisions to the design for closer compliance with the LMC and the Historic District Design Guidelines. During that process they realized that a third variance was required for the step.

Planner Grahm noted that in November 2013 revisions were made to the LMC that requires the step on the downhill façade to occur at a maximum height of 23'. That requirement was not in the LMC prior to November 2013. Prior to that time the LMC only required the step to occur on the Third Floor.

Planner Grahm presented slides showing the property location. Marsac Avenue encroaches 16-22' into the front yard. Along with the 10-foot required front yard setback, it takes up approximately 43% of the lot. Planner Grahm stated that on a typical Old Town lot of 25' x 75', the buildable lot size is 1,875 square feet. Due to the encroachment of Marsac Avenue, the buildable area is approximately 812-1/2 square feet. Based on the maximum footprint, a maximum square footage of 844 square feet is allowed. However, due to the encroachment of the street the square footage is reduced to approximately 706 square feet. The height remains the same. The total house size is reduced as well. On a three story house with an 844 square foot footprint, the total house size, even taking away the 10-foot step on the third level, would be 2,300 square feet. The house size on this property is 1,662 square feet as proposed without the step. The total loss on the 10-foot horizontal step results in 29% of the third floor on a typical house on an old town lot. On this property it is approximately 34%. The total impact on the house size is a difference of 5%.

Planner Grahm reviewed the criteria on page 15 of the Staff report that is used to determine whether or not the applicant qualifies for the hardship.

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. Due to the encroachment of Marsac Avenue on to the property, the Staff finds that requiring the 10-foot 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. Planner Grahn noted that the Staff also concluded that the property was not a steep slope and the downhill side actually faces Marsac Avenue because of the way Ontario slopes down. The overall change in grade on the lot was only 2'.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. The Staff concluded that this property is unique in that much of the front yard has been taken up by Highway 224, which reduces the overall total footprint to 706 square feet rather than the 844 that is usually achieved. Granting the variance allows the applicant to make up the loss in buildable area.

Criteria 3. Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. Granting the variance for the 10-foot horizontal step allows additional square footage in an already small house, and the applicant is not as burdened by the highway.

Criteria 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest. The Staff found that waiving the 10-foot requirement would create a design that is more consistent with the design guidelines and compatible with neighboring structures that were built prior to the 10-foot step requirement.

Criteria 5. The spirit of the Land Management Code is observed and substantial justice done. Planner Grahn explained that the goal of the ordinance that approved the 10-foot step was to reduce the mass and scale so structures stepped up and down the hill rather than becoming massive and bulky. The applicant already achieved the goal by breaking up the façade with bay windows, porches and other projections. She explained that this house would not create a wall effect on the street due to the height requirement and the placement of the lot.

Planner Grahn reviewed the proposed plans for the house.

The Staff recommended that the Board of Adjustment review the proposed variance, conduct a public hearing and consider granting the variance to the required 10-foot horizontal stepping.

The applicant, Alexis Gevorgian, addressed the Board. He emphasized that this was the same design that was presented in the last two submittals. When the home was designed with the setbacks and articulation he failed to make this variance request. Mr. Gevorgian believed the house was consistent with the homes in the surrounding neighborhoods. He felt like he was caught in limbo between the previous Code and the amended Code. If he is forced to comply

with the new Code requirements his home would not look as architecturally pleasing as the homes that were allowed under the old Code. Mr. Gevorgian stated that he has worked closely with the Staff for over a year and the design has evolved into a much better project. The last two variances that were granted would remain unchanged.

Mr. Gevorgian stated that his project meets all the criteria and his situation is unique. He clarified that he would not be making this request if his home was two-stories in the interior. However, because he does not have enough square footage in the home he had to go to three stories. His ceilings were lower in order to stay within the height requirement. Architecturally, it made no difference whether his home is two or three stories, but because it is called a three-story and because he is on a flat lot, he was artificially penalized because he did not have a slope.

Chair Gezelius opened the public hearing. There were no comments. Chair Gezelius closed the public hearing.

Chair Gezelius stated that after reviewing the application she concurred with the Staff recommendation that this was more of a housekeeping issue. It was difficult with the number of requests and the complicated site to catch everything the first time around. Chair Gezelius thought this project complied with the new rules and she recommended approval.

Board Member Wintzer was concerned with Criteria #5, the spirit of the Land Management Code being observed. In 2009 the City had the intent of reducing mass and scale in new development primarily because people have not been happy with the row houses and height. Board Member Wintzer stated that the change was made to eliminate that problem and the BOA was now being asked to forget about that change because it reduces the size of the applicant's house. Board Member Wintzer did not believe having to live with a smaller house was a hardship. She was bothered by the idea of being asked to ignore the Code.

Board Member Franklin concurred with the points made by both Chair Gezelius and Board Member Wintzer. She asked a Code question related to the stairwell that appears to touch the right-of-way as shown on page 31 of the Staff report. She referred to another drawing on page 29 which showed the stairwell either adjacent to or moving into the right-of-way.

Planner Grahn stated that Planner Whetstone was the prior planner, and she checked her action letter to see if it addressed the stairwell and the conclusion of the Board of Adjustment.

Board Member Wintzer recalled that the Planning Commission was very definite about the stairwell. Mr. Gevorgian stated that he had been before the Planning Commission several times and the approval was for one aspect. He still needed

to address the stairwell issue, but he needed a decision from the BOA before he could go back to the Planning Commission for review and approval on the stairwell.

Board Member Franklin thought the Board of Adjustment should incorporate Planning Commission approval into their conditions of approval.

Board Member Fuegi assumed Mr. Gevorgian was fully aware that the street was there and how much of his lot would be lost to the encroachment when he purchased the property. Mr. Gevorgian stated that he had met with Staff and they discussed the variance procedure. Board Member Fuegi understood that it was an oversight that the 10-foot step was not addressed when the plans were most recently reviewed by Staff. Mr. Gevorgian reiterated that the home had not changed since the last approval. The 10-foot step issue was not addressed because it is very complicated to interpret and it depends on how the slope is defined. It was convoluted and he felt it was reasonable not to have addressed it at the last meeting.

Board Member Fuegi noted that in his letter Mr. Gevorgian stated that he would be unable to enjoy his property unless he obtained the variance. He pointed out that Mr. Gevorgian could still build on his lot but the house would be smaller than what he wanted. Mr. Gevorgian replied that the variance would allow him to have a bathroom by the master bedroom. Without the variance he would be unable to have a master bedroom on the top floor. His findings were based on enjoyment similar to his neighbors. Even with the variance, he would still have the smallest home.

Board Member Miller stated that even though the design was the same as the previous variance requests, the BOA does not make decision based on designs per se. He was leaning towards agreement with Board Member Wintzer because the ordinance requiring the 10-foot step was put into place to avoid the situation of a row of houses along Marsac. While the other homes were built in that manner, they were built prior to the ordinance. Another reason for the 10-foot step is to protect the view corridors and to open up the streetscape. Board Member Miller remarked that whether it would look better along the street was a matter of opinion. He did not believe it met all the criteria to allow a structure to be built without the 10-foot step. Board Member Miller felt the BOA had already addressed the issue of hardship with the previous variance that was granted. He could not support granting the requested variance to avoid the 10-foot step on the third level.

Mr. Gevorgian pointed out that the house is stepped back on the corner. Stepping it back any wider would not make a difference in terms of the view corridor because the adjacent building is right on his property line. He reiterated that this variance was before the Board of Adjustment because he was adding an extra interior story to have a livable home. He believed it was arguable whether

or not his third level was even a story because of how it was situated. Mr. Gevorgian noted that he has been working on this project for two years and he has done everything the Staff requested. He was only asking for a bathroom for his master bedroom. If he had a two-story home this would not be an issue. He also felt he was being penalized because his lot was flat. Mr. Gevorgian asked the Board to consider the hardships and the findings he had made.

Director Eddington referred to page 32 of the Staff report and noted that the 10-foot step was met for part of the front façade but not on the other part. Planner Grahm indicated where the 10-foot step would occur. Mr. Gevorgian stated that his application was deemed complete before the new Code was adopted, and he had complied with the new Code in good faith.

Board Member Miller asked why Mr. Gevorgian needed the variance if he already had the 10-foot step. Director Eddington clarified that the 10-foot step was only on part of the structure. The variance was being requested on the other portion that did not meet the 10-foot step.

Board Member Wintzer believed that most people who knew they were purchasing a constrained lot would have simply built the smaller house. Mr. Gevorgian made the choice to go through the process with the Planning Commission and the Board of Adjustment to get the house he wanted. It was not the fault of the City. Mr. Gevorgian clarified that he was not blaming the City. For lack of a better word it was a clerical mistake. His application was deemed complete before the new Code was adopted.

Chair Gezelius stated that when the rules change they often have implementation problems. One reason for the Board of Adjustment is to facilitate making transitions. She believed that the general neighborhood would not benefit from having a surplus parking lot. Chair Gezelius viewed this as improving the General Plan to have a home that was similar on this lot, instead of fencing in a parking lot. The rules were different when the other homes were built, and to require such a small home on this challenged site makes this an even less compatible neighborhood. She sees it as a transition along the street that is better than what exists. Chair Gezelius stated that someone always gets caught in the middle when the rules change. If the process is so rigid that it does not allow flexibility in implanting new ideas, it goes against the spirit of the General Plan. Chair Gezelius believe this was a good compromise for the site and she reiterated her recommendation to approve the request.

Chair Gezelius called for a motion to either approve or deny the variance request.

Board Member Miller asked for clarification on whether the application and design were complete prior to the adoption of the ordinance, as Mr. Gevorgian

stated. Planner Grahn replied that the application was complete in October of 2013 and the LMC change was officially adopted in November.

MOTION: Based on the knowledge of a complete application and all the other points that were raised, Board Member Fuegi moved to support the Staff recommendation to grant a variance on the 10-foot step for the third floor subject to the Findings of Fact, Conclusions of Law, the Order and Conditions of Approval.

Board Member Miller seconded the motion with the request that the Findings of Fact include the fact that the application was complete prior to adoption of the change to the LMC.

Board Member Franklin noted that there was talk about a 2009 Code change and that the application was complete in 2013.

Assistant City Attorney McLean clarified that the three story 10-foot step has been in the Code since 2009-2010. In November 2013 there were a lot of issues on steep slopes due to a height requirement and a maximum of three stories. There was significant discussion regarding the definition of stories and what to do with split levels. The Code change in November 2013 removed the three-story maximum requirement and added language stating that no structure could be over 27'. However, if it is on a steep slope it is restricted to a total maximum height of 35' measured from the lowest finished floor to the point of the highest wall top plane. Director Eddington clarified that it is an internal measurement that replaced number of stories.

Planner Grahn drafted Finding of Fact #21, "The application was deemed complete on October 24, 2013. The change to the LMC was adopted on November 13, 2013.

Chair Gezelius called for a vote on the motion.

VOTE: The motion passed 3-2. Board Members Miller, Fuegi and Gezelius voted in favor of the motion. Board Members Wintzer and Franklin voted against the motion.

Findings of Fact

1. The property is located at 488 Marsac Avenue.

2. The property is located within the Historic Residential (HR-1) District. The applicant requests a variance to waive the required ten foot (10') horizontal step on the third (3rd) floor of the façade. On August 27, 2013, the Board of Adjustment granted a variance to reduce the north side setback from five (5') feet to one (1') foot, for an average of a two (2') foot setback, with a minimum of a one (1') foot setback. The BOA also granted a variance to reduce the required

parking for the site from two (2) spaces to one (1) space due to site constraints. The property is a vacant 25' wide by 75' deep standard "Old town" platted lot.

3. The property is Lot 16 of the original Park City Survey. The lot contains 1,875 square feet.

4. State Highway 224 (Marsac Avenue) encroaches at an angle across the front 16' to 22' feet of subject Lot 16 creating a hardship that other lots in the district, subject to the same LMC requirements, do not have. This encroachment plus the additional area required to accommodate a ten foot (10') front setback equates to 812.5 sf of the total 1,875 sf lot (43% of the lot area). On an unencumbered lot the area required to accommodate a ten foot (10') setback equates to 250 sf of the total 1,875 sf lot (13.3% of the lot area).

5. The same LMC requirements apply to this lot as apply to all lots of this size that are not encumbered by the highway.

6. The maximum building foot print allowed for a 1,875 sf lot is 844 sf. With the requested setback variances the applicant is proposing a building footprint of approximately 650 sf, which is about 84% of the maximum allowed building footprint for a standard "Old Town" lot.

7. The area of encroachment by the highway has not been dedicated to the State Department of Highways as public ROW. The entire lot is owned by the applicant and the highway is in a prescriptive easement across the lot.

8. The property adjacent to the north is platted, un-built Fifth Street ROW.

9. The applicant submitted an application for a Conditional Use Permit for a driveway within adjacent platted, un-built Fifth Street ROW for a side accessed garage as encouraged by the 2009 Design Guidelines for Historic Districts and Sites. Due to concerns raised by the Planning Commission, the applicant chose to withdraw this application and pursue other design options.

10. The applicant is requesting this variance to address unreasonable hardships facing this property owner due to the encroachment of the highway and in order to create a design that is more compatible with the rhythm and pattern of the streetscape.

11. 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%).

12. Due to the previously granted variances, the allowed footprint for this structure is approximately 706 square feet. The total square footage of the house, as proposed and not including the ten foot (10') horizontal step, is 1,662 square feet. As proposed, the house is a three (3) bedroom home; however, the required step would reduce the house to a two (2) bedroom home.

13. 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 488 Marsac Avenue is relatively flat and the total change in grade is approximately two feet (2').

14. 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.

15. 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.

16. 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 Marsac Avenue, but rather reinforce the existing rhythm of the street.

17. The unique situation with this corner lot is that the highway encroaches on the front yard by up to twenty-two (22') feet and the side yard abuts an un-built platted ROW. 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 1,662 square feet.

18. The requested variance to the stepping requirement is not contrary to the zoning district and addresses a hardship due to the encroachment of the State Highway across the front portion of the lot that has severely limited the overall allowed size of the house.

19. By granting the variance, as described in the Order below, the spirit of the LMC is observed and substantial justice is done in that the variance allows the owner to pursue a unique design solution for a corner lot that presents an opportunity to resolve safety issues and to comply with the Design Guidelines for Historic Districts and Sites.

20. The findings in the Analysis section are incorporated herein.

21. The application was deemed complete on October 24, 2013. The change to the LMC was adopted on November 13, 2013.

Conclusions of Law

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

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.

206 Grant Avenue – Request for Variance
(Application PL-13-02264)

Planner Christy Alexander reviewed the application for a variance request to omit a second parking space requirement for new construction of a single family home on a vacant lot in the HR-2 zone. The applicant, Myke Hughes, was represented by the project architect, Jonathan DeGray. The property is located at 206 Grant Avenue and the applicant was requesting a variance from LMC Section 15-3-6(A), which requires two parking spaces for a single family dwelling. The applicant was seeking a variance for one parking space.

In October 2013 the applicant submitted an application for a Historic District Design Review for the single family dwelling. The proposed home and garage design did not have two parking spaces entirely on-site. Planner Alexander explained that this was a unique situation where the access would be off Swede Alley, but they also have the Grant Avenue right-of-way directly adjacent to Swede Avenue. The applicant was proposing a single car garage for one car. The driveway would go into Grant Avenue, but the driveway is not long enough and entirely on their property to fit the second car.

Planner Alexander reviewed the site plan. She noted that the lot was triangular in shape and it is encumbered by a public stairway easement that runs diagonally across the property. The setbacks were significantly more than the required 3' setback.

The applicant was requesting the variance due to the hardship of the public stairway, the unusual configuration of the lot, and the steep slope. The Analysis of the five criteria necessary to grant a variance was outlined in the Staff report.

Jonathan DeGray, representing the applicant, pointed out that the lot is unusually shaped but it is larger at 2,257 square feet. The average Old Town single lot is 25' x 75' and 1,875 square feet. There is ample lot area; however, the total footprint allowed would be 984 square feet. The applicant was proposing 494 square feet of footprint, partly due to the constraints of the setbacks and the staircase. The staircase occupies 626 square feet, which is approximately 27% of the total lot area. Mr. DeGray pointed out that they were penalized by the easement of the staircase. The size of the home is proposed to be 744 square feet of living area plus a 240 square foot garage. Based on the building size and the layout it is designed as a studio apartment. Therefore, parking for a single car would be adequate for the use. Mr. DeGray did not believe the requested variance would cause any problems with the LMC and it would allow them to create a structure compatible in size with the other smaller buildings along Swede Alley.

Planner Alexander reported that after review of the HDDR application, the Staff found compliance with all the design guidelines, with the exception of meeting the LMC requirement of the second parking space. In order to meet both the LMC and the Historic District Design Guidelines, the Staff recommended that the Board of Adjustment conduct a public hearing and consider granting the requested variance.

Chair Gezelius indicated homes shown on page 99 of the Staff report and noted that those homes were not Park City historic homes. The homes were moved from Ogden and over the years they were made habitable and provide housing in the Historic District. The rules were different when those houses were placed on site. One was converted into a duplex and the larger structure has outside parking and functions like a large studio.

Chair Gezelius understood that there were no sewer easements running through the property. Mr. DeGray replied that he had a letter from the sewer district allowing them to move forward.

Board Member Miller recalled remarks in the Staff report indicating that if the variance was not granted this house could be built without any variances, but an additional story would be required to accommodate the setback. Planner Alexander did not recall that statement in the Staff report. Per the HDDR review, the proposed design fits within the design guidelines. If they were to change the design it may not comply with all of the guidelines. Planner Alexander stated that they could add an additional story, but they still might not be able to meet the parking requirement.

Board Member Wintzer asked if any restrictions were placed when this went before the Planning Commission for the lot combination. Planner Alexander replied that it was before the Planning Commission for a plat amendment, but it was before she came on Staff. In her research she had not found any restrictions that would affect the variance.

Chair Gezelius opened the public hearing.

Tom Checketts, an attorney with Kurtin McConkie in Salt Lake City, represented Todd Cusick, who owns the Star and the Imperial Hotel. For many years the Imperial Hotel has used the parking in front of this proposed home. It has been signed as parking exclusively for the use of the Imperial Hotel and the City has enforced that parking for the benefit of the Imperial Hotel. Mr. McConkie explained that years earlier an entity called Avenues Communities owned the property Mr. Hughes now owns, as well as the Imperial Hotel, and they entered into an encroachment agreement with the City that formalized the parking. Mr. McConkie stated that the encroachment agreement grew out of decades of the owners of the Imperial Hotel and the Star working to find suitable parking. His client's concern with this development is not only the variance from two to one

parking spaces, but also that every photograph shows the driveway encroaching on this encroachment area. Mr. McConkie visited the site prior to this meeting and the signs indicating parking for the Imperial Hotel are still in place as they have been for years. He noted for the record that the pictures in the Staff report do not show the signs and they have either been photo shopped or represent the one day in the last several years that those signs were not in place. Mr. McConkie found it troubling that the Board was not provided with photos that accurately reflect the property as it is. For that reason and because his client has an interest in the property, Mr. McConkie asked the Board to deny the variance application to remove parking stalls that are badly needed in the Historic District, and that the parking area not be turned into a driveway.

Mr. McConkie submitted into the record a letter with exhibits that show the parking signs, citations that were given to people who parked in that area, and the encroachment agreement. It also indicates that on the recommendation of City Staff, his client obtained an assignment of that encroachment agreement for his benefit. Mr. McConkie clarified that there was no intention to stop Mr. Hughes from building his home, but his client needs the parking. Recognizing that it was an unfortunate situation, he believed the parking needed to stay with the Imperial Hotel.

Chair Gezelius asked Mr. Checketts for his position regarding his client's ownership interest or agreement for historically using the space for parking. Mr. Checketts replied that the area has been used solely as parking for the Imperial Hotel for the entire period of the encroachment agreement. The City has recognized it and enforced it. To the best of his knowledge, the property has always been used for that purpose..

Assistant City Attorney McLean explained the City's position. There is an encroachment agreement appurtenant to this property. The property was originally called a parking parcel when the City owned the Imperial Hotel and two other properties. It was purchased in 2003 and the City sold all three properties to the Avenue Communities Group in 2006. As part of the sale, an encroachment agreement was given to allow parking in the right-of-way, and it was all owned by one owner. Subsequently, the properties were sold off. Ms. McLean stated that she had reviewed the encroachment agreement in depth and it is clear that the agreement is appurtenant to the property at 206 Grant; therefore, only the owner of that property has the right to use any parking in front. The encroachment agreement is non-transferrable to another property and one of the conditions is that the City can revoke it at any time. Ms. McLean stated that while it is true that the Imperial Hotel used it as parking, it is no longer the case because they no longer own that parcel.

Chair Gezelius clarified that Ms. McLean's legal opinion was that the ownership of the parcel was unrelated to the parking and that Mr. Hughes, the owner of 206

Grant Avenue holds, the legal title to the land. Ms. McLean replied that this was correct.

Board Member Miller understood that the property was owned by the Imperial Hotel as part of three parcels, and they sold off the 206 Grant Avenue parcel.

Mr. Checketts agreed that Mr. Hughes owns the property at 206 Grant Avenue. However, the legal description that was attached to the encroachment agreement identifies the lot that Mr. Hughes owns as the appurtenant property. In working through this issue for several months and prior to this application, the Avenues Communities Group thought that the legal description attached was for the Imperial. It was not until this variance application that Park City Title actually looked into the details. Mr. Checketts stated that it was true that the legal description on the agreement identifies Mr. Hughes' lot. However, there is a doctrine in the law called Mutual Mistake, and he believed that everyone involved, including the City Staff thought that the legal description attached was the legal description of the Imperial Hotel.

Chair Gezelius asked if the title insurance was based on the finding that 206 Grant Avenue owns this property. Planner Alexander remarked that the City owns the property, and the Imperial Hotel has an encroachment agreement to utilize it as parking. Mr. Checketts stated that there is a doctrine where someone owns something and the rights can separate. Typically, someone would try to ascertain the intent of the parties. He submitted that the intent of the parties was clear, given the fact that the signs never changed and they always identified the property as being parking solely for the Imperial Hotel. Mr. Checketts believed that all the parties involved were wrong but it was a mutual mistake. In his research he found nothing that indicated that anyone suggested or recommended doing anything other than keeping the parking encroachment area available for the benefit of the Imperial Hotel.

Assistant City Attorney McLean stated that the parking encroachment agreement was recorded with the property at 206 Grant Avenue. In her review of the City records she did not believe there was any mistake on the part of the City by granting the encroachment agreement to that property. A mistake may have been made when the Imperial Hotel was sold to a new owner, but that did not involve the City. Ms. McLean remarked that 206 Grant Avenue is a developable property that was subdivided. It is a lot of record and the property is entitled to be built upon. She advised that the Board should not consider the allegation made by Mr. Checketts as a reason to deny the applicant his development rights. Their review and decision should be based on the criteria for the variance.

Board Member Wintzer asked if the City has not revoked the agreement because they do not consider it valid. Ms. McLean stated that the City Engineer has the discretion to recommend to the City Council whether or not to revoke the encroachment agreement. At this point that has not been done.

Mr. Checketts stated that it was the City Engineer who recommended that his client get an assignment of the encroachment agreement.

Chair Gezelius closed the public hearing.

Myke Hughes, the applicant, stated that when he purchased the property from the previous owner the parking signs were on the property but they were lying down in three feet of brush. Not knowing who the Imperial Hotel was at that time, the signs were taken off the property and stored. Mr. Hughes remarked that everyone started to park on the property and he eventually put the signs back up. When all of this started, he kept the signs but blacked out the words "Imperial Hotel" to just say, "no parking, permit only", which appeared to solve the problem. Mr. Hughes stated that he notified Planner Alexander informing her that he intended to have signs made for 206 Grant Street only, which he did. He wired them on to the existing signs and during Sundance someone stole the signs from the property.

Chair Gezelius requested that the Board continue their discussion on the application for the variance request for a parking reduction.

Board Member Miller stated that these variances have been allowed in the past for this type of situation involving a right-of-way going through a property. With the understanding that the legal issue was outside of BOA purview, he was not opposed to reducing the parking requirement, particularly considering that the size of the house is a studio with a single-car garage. Board Member Miller was comfortable with the findings of fact as written and he would vote to approve.

Board Member Fuegi concurred with Board Member Miller. He recalled variance requests on other applications where the BOA granted a parking reduction to one parking space on a much larger properties. He read from page 87 of the Staff report, "One parking space was enough for this studio home. Should the applicant need additional residential parking in the future, Parking Services offers up to two residential parking permits." He was unaware of the parking permits and Planner Alexander explained the process for obtaining a permit. Board Member Fuegi clarified that parking would not be designated and that the permit only gives the right to park there at no cost. Director Eddington replied that parking spaces are not designated. It allows the opportunity to park in the garage if someone is a resident in Old Town along Main Street and the Swede Alley area. Board Member Fuegi thought it was appropriate to grant the variance.

Chair Gezelius concurred. She commented on the proximity of this lot to public transportation.

Board Member Franklin agreed that granting the variance makes sense and she would approve reducing the number of parking spaces. However, she had concerns about whether the condition of improvable should include whether or not to revoke the encroachment agreement. She also had concerns about “no parking” signs being placed on the Grant Street right-of-way by either the Imperial or Mr. Hughes. Board Member Franklin requested that language be added to ensure that even though they were granting the variance for one parking space, that it would not allow four parking spaces in front of a studio apartment because of the signage.

Assistant Attorney McLean stated that the encroachment agreement was outside of the Board’s purview to discuss; however, the Staff could convey their recommendation to the City Council and the City Engineer regarding revocation. She noted that because the encroachment agreement is revocable, the applicant could not use those spaces for his required parking. That was the reason he applied for the variance. Chair Gezelius asked if that issue could be part of the BOA findings or whether it should be handled administratively outside of this Board. Ms. McLean replied that it should be addressed outside of the Board of Adjustment.

Board Member Franklin agreed that their purview was only the variance for the parking space, but she was concerned that future issues would arise for various reasons. Director Eddington clarified that Board Member Franklin thought the public right-of-way should be open to the public and not specifically designated. Chair Gezelius suggested language, “...reviewed by the City Engineer and an appropriate plan be made with both signage and use.” Board Member Franklin added, “...and clarified to all interested parties the usage of that.” She wanted it clear that erecting a sign would not grant usage.

Director Eddington stated that the Staff would convey their intent to the City Engineer.

Board Member Wintzer also agreed with granting the variance.

Chair Gezelius called for a motion.

MOTION: Board Member Franklin moved to grant the variance for 206 Grant Avenue based on the Findings of Fact, Conclusions of Law, and the Order. Board Member Fuegi seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact

1. The property is located at 206 Grant Avenue.

2. The property is located within the Historic Residential (HR-2) District.
3. The property owner requests a variance from the LMC § 15-3-6 (A) which requires two (2) parking spaces per Single Family Dwelling, to allow a requirement of only one (1) parking space at 206 Grant Avenue.
4. The property consists of one (1) lot of record. The lot contains 2,257 square feet.
5. The site is currently vacant.
6. The public stairway easement encroaches at an angle across the southern side yard running diagonally northeast to southwest, creating a hardship that other lots in the district, subject to the same LMC requirements, do not have. This encroachment plus the additional area required to accommodate a three foot (3') side yard setback equates to 626.8 square feet of the total 2,257 square feet lot (27% of the lot area). On an unencumbered lot the area required to accommodate a three foot (3') setback equates to 225 square feet of the total 1,875 square feet lot (12% of the lot area).
7. The same LMC requirements apply to this lot as apply to all lots of this size that are not encumbered by a public stairway easement or that do not have the unusual shape and steepness that this lot has.
8. The maximum building foot print allowed for a 2,257 square feet lot is 993 square feet. With the requested setback variances the applicant is proposing a building footprint of approximately 494 square feet, which is about 51% of the maximum allowed building footprint for an Old Town lot.
9. The applicant is requesting this variance to address unreasonable hardships facing this property owner due to the encroachment of the public stairway easement, unusual shape, and steepness of the lot.
10. Granting of the variance to waive the required two (2) parking spaces allows the applicant similar property rights as other property owners in the district.
11. The small size of the studio home requires less of a parking demand and does not need two (2) parking spaces.
12. Without the variance, the applicant will not be able to build a home that meets the Historic District Design Guidelines and LMC requirements for this zone.
13. 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 home.

14.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.

15.The spirit of the LMC is observed and substantial justice done.

16.The LMC encourages the preservation of historic structures and construction of historically compatible new construction that contributes to the unique character of the Historic District.

17.The LMC defines 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 surrounding residential neighborhoods and consistent with the Design Guidelines for Park City's Historic Districts and Historic Sites.

Conclusion of Law

1. Literal enforcement of the HR-2 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 and substantial justice is done.

6. It can be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have been met.

Order

1. A variance to LMC § 15-3-6 (A), to the required two (2) parking spaces per Single Family Dwelling to allow a requirement of only one (1) parking space at 206 Grant Avenue, is hereby granted.

2. The variance runs with the land.

Board of Adjustment
March 18, 2014

Chair Gezelius adjourned the meeting at 6:28 p.m.

Approved by _____
Ruth Gezelius, Chair
Board of Adjustment

Board of Adjustment Staff Report



Subject: 632 Deer Valley Loop
Author: Anya Grahn, Historic Preservation Planner
Project #: PL-13-02160
Date: April 15, 2014
Type of Item: Quasi-Judicial – Appeal of Historic Preservation Board’s Determination of Significance

Summary Recommendations

Staff recommends the Board of Adjustment hear the appeal of the Historic Preservation Board’s (HPB) determination of significance of the historic site at 632 Deer Valley Loop. The HPB determined that the site meets the criteria for designation as a “Significant” site.

Topic

Applicant: William and Juli Bertagnole
Location: 632 Deer Valley Loop
Zoning: Residential-Medium Density (RM) District
Adjacent Land Uses: Historic Residential-1 (HR1), Historic Residential-Low Density (HRL), Estate (E), and Residential Development (RD) Districts
Reason for Review: Appeal of the Historic Preservation Board’s determination of significance of the historic site at 632 Deer Valley Loop.

Background

The Park City Historic Sites Inventory, adopted February 4, 2009, includes four hundred five (405) sites of which one hundred ninety-two (192) sites meet the criteria for designation as Landmark Sites and two hundred thirteen (213) sites meet the criteria for designation as Significant Sites. The existing structure at 632 Deer Valley Loop was added to the Inventory as a Significant Structure based on a reconnaissance level survey by then-Historic Preservation Consultant Dina Blaes in 2009. It had been previously identified as historic in a 1995 reconnaissance level survey, but was not included in the 1982 Historic District Architectural Survey.

During the reconnaissance-level survey, Dina noted that the Sanborn maps identified the structure as a “Hall-Parlor” home, but noted that the side addition had likely been added outside the Mature Mining Era, between 1949 and 1969. Sanborn Fire Insurance maps were used to determine the original shape of the home. Though the structure has retained its historic form, much of its historic integrity has been lost due to changes in its exterior materials. The wood siding material is not original, nor are the aluminum windows and doors. The porch supports have also been replaced. The second floor window opening has been lost as well, and a side porch appears to have been enclosed to create additional interior living space after 1969. (The history of this structure is outlined further in the HPB Report for November 13, 2013, Exhibit C.)

A fire on May 17, 1999, severely destroyed the rear of the structure. Though it had a negative impact on the rear addition, the remainder of the historic structure remained intact on the hall-parlor portion of the house. Years of deterioration and exposure to the elements should have resulted in greater damage and the rapid decline of the exposed walls and roof joists; however, they are in surprisingly fair condition.

A trust deed was recorded at the Summit County Recorder's Office on May 2, 2013, transferring ownership from the Bureau of Land Management (BLM) to the Bertagnoles, following decades of litigation with the BLM. On August 21, 2013, a Notice and Order to Vacate and Demolish the structure was issued by the Building Department due to the fire damage and dilapidated state of the structure. The property owners would like to demolish the structure in order to accommodate new development; they do not believe it is historically significant.

Site visits have been made by the Chief Building Official, Planning Director, and Planning Department staff.

Because of the limited information available in the HSI, the Planning Director directed staff to conduct additional research to determine the historic significance of the 632 Deer Valley Loop site. The Historic Preservation Board (HPB) determined that the structure should remain on the inventory as a "Significant" site on November 13, 2013.

The Planning Department received an appeal of the HPB's determination on November 25, 2013, within ten (10) days of the HPB's determination.

Appeal and Burden of Proof

The specific appeal is to the Historic Preservation Board's Determination of Significance. LMC 15-11-10(B)(4) states that the Applicant or any party participating in the hearing may appeal the Historic Preservation Board decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of Historic Preservation Board final action.

Appeals shall be considered by the Board of Adjustment on the record made before the Historic Preservation Board. Appeals to the Board of Adjustment will review factual matters for correctness and determine the correctness of the decision of the land use authority in its interpretation and application of the land Use ordinance.

Upon appeal, the Board of Adjustment shall conduct a hearing and shall review the matter under de novo standard review. The BOA, in conformity with the provisions of the Code, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made. The Owner bears the burden of demonstrating that the HPB erred in their findings.

The applicant's appeal is attached hereto as Exhibit A. The applicant's basis of appeal is that:

1. There is no historic material or elements that may be significant.
2. It is an old building that retains its c. 1900 footprint, but there is no evidence that the structure is significant to the regional history, architecture, engineering, or culture. There is no evidence of significance in the lives of persons associated with the building.
3. The applicant finds that the structure does not meet the criteria outlined in the Municipal Code for designation as a “significant” structure.

Analysis

The applicant finds that the structure does not meet the criteria outlined in LMC 15-11-10(A)(2) regarding the designation of the historic site. The following analysis addresses their findings.

- 1. The applicant finds that there are no original log walls or any other elements that may be significant.*

Staff finds that log walls would likely relate to the settlement period of Utah or even the region, and that the pioneer period is not the only period of significance. The structure should be considered “significant” as part of the Mature Mining Era (1894-1930).



A single photograph from the late-1930s tax assessment depicts the structure in much the same form as it exists today. One-over-one double-hung windows framed the central entry door on the front porch. The front porch had a hip roof supported by turned porch posts. Horizontal railings framed the porch while vertical siding enclosed the area beneath it. On the west elevation, a side entry porch covered shielded a side door. The one-story rear addition is visible behind the porch. An attic entrance or window is provided at the top of

the gable on the west elevation. This photograph documents the appearance of the structure during the Mature Mining Era.



The applicant is correct in that much of the historic character and original features of the building have been lost. The wood siding material is not original, nor are the aluminum windows and doors. The porch supports have also been replaced. The second floor window opening has been lost as well, and a side porch appears to have been enclosed to create additional interior living space after 1969. No original wood windows remain.

The historic structural system of the building remains and has allowed the structure to maintain its historic form. The hip roof of the front porch has been preserved, though steel porch columns have replaced the turned wood columns. The central brick chimney and wood entry door on the façade are also original elements.

Though many of the original features are not visible, they do remain. The historic wood siding has been covered by layers of Bricktex and vertical wood siding. The wood trim around the historic door and window openings exist as well, though their profiles have been compromised by layers of cladding. If the Bricktex and existing wood siding were to be removed, the second story gable window opening would likely be exposed or at least shown to exist through ghost lines.

2. *The applicant finds that it is an old building that retains its c. 1900 footprint, but there is no evidence that the structure is significant to the regional history, architecture, engineering, or culture. There is no evidence of significance in the lives of persons associated with the building.*

In order for a structure to remain “Significant” on the City’s Historic Sites Inventory (HSI), it must be important in local or regional history, architecture, engineering, or culture associated with at least one (1) of the following:

- (i) An era of Historic importance to the community, or
- (ii) Lives of Persons who were of Historic Importance to the Community, or
- (iii) Noteworthy methods of construction, materials, or craftsmanship used during the Historic Period.

As outlined in the Historic Sites Form, staff finds that this structure contributes to our overall understanding of the history of the community. Along with the other residential structures that make up the City’s historic districts, these houses provide insight and understanding of the residential character of mining towns of the late nineteenth and early twentieth century, including settlement pattern and socio-economic makeup.

Park City is one (1) of three (3) metal mining districts in the state during Utah’s mining boom period (late-19th Century through early-20th Century). The city is one (1) of only two (2) major metal mining communities to have survived to the present. As such, Park City has the largest and best preserved collection of residential buildings of any Utah metal mining town. As a whole, these structures provide the most complete documentation of the residential character of mining towns of the period.

The structure at 632 Deer Valley Loop was once part of the larger Red Light District. Many of the structures that once made up this neighborhood have been lost; however, four (4) remain in close proximity to one another—632 Deer Valley Loop; as well as 622, 652, and 660 Rossie Hill Drive. The relationship between these four (4) houses demonstrates the density of the Red Light District and this neighborhood that existed just outside the congestion of the downtown.

The applicant is correct in that the structure is not historically significant based on the lives of persons who were of Historic importance to the community. The original builder and residents of this structure are unknown. It was likely also not designed by an architect but, rather, by the property owner or a carpenter-builder.

Staff finds, however, that the structure is historically significant due to its methods of construction, materials, and craftsmanship that reflect the Historic Period. Park City has the state’s largest collection of late-19th Century and early-20th Century frame houses. The use and application of simple building materials—including lumbered wood and brick—represent traditional building patterns. The structure’s lack of foundation and frame construction also depict a common construction technique in Park City.

3. *Lastly, the applicants argue that the structure does not meet the criteria for significance established in the Municipal Code.*

Staff and the Historic Preservation Board have found that the structure does meet the criteria outlined in LMC 15-11-10(A)(2) for Significant Sites. As defined, any buildings (main, attached, detached or public), accessory buildings and/or structures may be designated to the Historic Sites Inventory as a Significant Site if the Planning Department finds it meets all the criteria listed below:

(a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and (...)

Complies. The structure was originally constructed circa 1900, and not later than 1910 making the structure 113 years old.

(b) It retains its Essential Historical Form, meaning there are no major alterations that have destroyed the Essential Historical Form. Major alterations that destroy the Essential Historical Form include:

- (i) Changes in pitch of the main roof of the primary façade if 1) the change was made after the Period of Historic Significance; 2) the change is not due to any structural failure; or 3) the change is not due to collapse as a result of inadequate maintenance on the part of the Applicant or a previous Owner, or
- (ii) Addition of upper stories or the removal of original upper stories occurred after the Period of Historic Significance, or
- (iii) Moving it from its original location to a Dissimilar Location, or
- (iv) Addition(s) that significantly obscures the Essential Historical Form when viewed from the primary public Right-of-Way.

Complies. The home retains its original historic form. The 1960s side addition does not detract or negatively impact the historic form of the structure. It could be removed if the owners chose to restore the structure as it has not achieved significance in its own right. Any future panelization or reconstruction will also preserve the historic hall-and-parlor form of the structure.

(c) It is important in local or regional history, architecture, engineering, or culture associated with at least one (1) of the following:

- (i) An era of Historic importance to the community, or
- (ii) Lives of Persons who were of Historic importance to the community, or
- (iii) Noteworthy methods of construction, materials, or craftsmanship used during the Historic period.

Complies. As previously described, the structure contributes to our understanding of Park City's Mature Mining Era (1894-1930). The houses within Old Town and the historic district are the largest and best preserved group of residential buildings in a metal mining town in Utah. As such, they provide the most complete documentation of the residential character of mining towns of that period, including settlement patterns, building materials, construction techniques, and socio-economic make-up.

These structures greatly add to our understanding of a significant aspect of Park City's economic growth and architectural development as a mining community.

The criteria for designating sites to the Park City Historic Sites Inventory as a Landmark Site include:

- (a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and
- (b) It retains its Historic Integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the National Park Service for the National Register of Historic Places; and
- (c) It is significant in local, regional or national history, architecture, engineering or culture associated with at least one (1) of the following:
 - (i) An era that has made a significant contribution to the broad patterns of our history;
 - (ii) The lives of Persons significant in the history of the community, state, region, or nation; or
 - (iii) The distinctive characteristics of type, period, or method of construction or the work of a notable architect or master craftsman.

The HPB has found that the structure at 632 Deer Valley Loop meets the standards for local "significant" designation, but does not meet the criteria for "landmark" designation. In order for the site to be designated as "landmark," the structure would have to retain its historic integrity in terms of location, design, setting, materials, workmanship, feeling and association. Moreover, it would be eligible for the National Register. Due to the alterations, loss of its historic materials, and changes in window and door configuration, the structure is no longer eligible for the National Register of Historic Places.

Future Process

Final Actions by the Board of Adjustment on Appeals may be appealed to Third District Court within thirty (30) calendar days.

Staff Recommendation

Staff requests the Board of Adjustment review the following findings of fact and conclusions of law and order and consider adopting them and denying the appeal.

Alternatives

1. The Board of Adjustment may reverse the Historic Preservation Board's determination of significance.
2. The Board of Adjustment may remand the appeal back to the Historic Preservation Board to evaluate the new evidence.
3. The Board of Adjustment may direct staff to provide additional analysis and continue the appeal to a future date.

Findings of Fact

1. 632 Deer Valley Loop is within the Residential-Medium Density (RM) zoning district.

2. There is an existing side gable hall-parlor structure at 632 Deer Valley Loop. This structure is currently listed on the Park City Historic Sites Inventory as a "Significant" Structure.
3. The existing structure has been in existence at 632 Deer Valley Loop since circa 1900. The structure appears in the 1904 and 1927 Sanborn Fire Insurance maps. Furthermore, the Historic Site Form contains tax cards of the structure from 1949, 1958, and 1969. A late-1930s tax card photo also demonstrates that the overall form of the structure has not been altered.
4. The hall-and-parlor structure and later rear addition were both constructed within the Mature Mining Era (1894-1930) and are historic.
5. Though out of period, the enclosed side porch entrance added in the 1960s does not detract from the historic significance of the structure.
6. The existing structure is in serious disrepair and is not habitable in its current dangerous condition.
7. There is very little original exterior materials remaining on the exterior of the home. The original wood lap siding has been covered by layers of Bricktex and vertical wood siding
8. The double-hung windows on the façade were removed and expanded to install larger, undivided rectangular windows after 1969. The original wood double-hung windows throughout were replaced by aluminum windows.
9. After 1969, the turned wood porch posts were replaced with new decorative metal columns. A brick chimney was installed above the enclosed side porch that was later repaired with thick layers of Portland Cement.
10. The structure is a hall-parlor plan and typical of the Mature Mining Era.
11. The rear addition of the structure, dating prior to 1927, was severely damaged in a fire on May 17, 1999.
12. The site meets the criteria as Significant on the City's Historic Sites Inventory.
13. Built circa 1900, the structure is over fifty (50) years old and has achieved Significance in the past fifty (50) years.
14. Though the structure has lost its historic integrity due to the out-of-period alterations to its historic materials, it has retained its historical form. The out-of-period addition to the west elevation of the structure does not detract from its historic significance.
15. The structure is important in local or regional history because it is associated with an era of historic importance to the community, the Mature Mining Era (1894-190).

Conclusions of Law

1. The existing structure located at 632 Deer Valley Loop meets all of the criteria for a Significant Site as set forth in LMC Section 15-11-10(A)(2) which includes:
 - (a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and
 - (b) It retains its Essential Historical Form, meaning there are no major alterations that have destroyed the Essential Historical Form. Major alterations that destroy the Essential Historical Form include:
 - (i) Changes in pitch of the main roof of the primary façade if 1) the change was made after the Period of Historic Significance; 2) the change is not due to any

- structural failure; or 3) the change is not due to collapse as a result of inadequate maintenance on the part of the Applicant or a previous Owner, or
- (ii) Addition of upper stories or the removal of original upper stories occurred after the Period of Historic Significance, or
- (iii) Moving it from its original location to a Dissimilar Location, or
- (iv) Addition(s) that significantly obscures the Essential Historical Form when viewed from the primary public Right-of-Way.
- (c) It is important in local or regional history, architecture, engineering, or culture associated with at least one (1) of the following:
 - (i) An era of Historic importance to the community, or
 - (ii) Lives of Persons who were of Historic importance to the community, or
 - (iii) Noteworthy methods of construction, materials, or craftsmanship used during the Historic period.

Order

1. The appeal of the Historic Preservation Board's determination of significance for 632 Deer Valley Loop is denied.

Exhibits

- Exhibit A — Applicant's appeal (November 25, 2013)
- Exhibit B — Applicant's report on historical significance (March 31, 2014)
- Exhibit C — Historic Preservation Board Staff Report 11.13.13
- Exhibit D — Historic Preservation Board Minutes, 11.13.13

William and Juli Bertagnole
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435 649-8538
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November 25, 2013

Park City Municipal Corp.
Planning Dept.
Historic Preservation Board

15-11-4 Appeal to the Historic Preservation Board decision to the Board of Adjustment pursuant to Section 15-10-7 of this code.

Regarding the property at 632 Deer Valley Loop belonging to William and Juli Bertagnole.

We have reviewed the November 13th staff report related to this structure. We take exception to the findings regarding this property. We have today been advised that we have 10 days from the date of the hearing to appeal your decision and this is the 10th day; therefore, we are sending this letter as a preview of issues we would like to be raised.

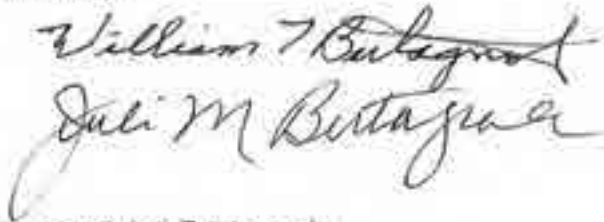
Regarding the historic elements of this structure, we do not remember anything that looked like the original log walls or any other elements that may be significant. As the structure is unstable and near collapse the above issue is critical and we can provide additional information if given the opportunity.

The only thing we agree with is that it is an old building that retains it's 1900 footprint. There has been no evidence presented of it's importance to regional history, architecture, engineering or culture. No evidence of significance in the lives of persons associated with the building. The building was condemned and ordered torn down after the fire of 1999 and considered a total loss and a public safety hazard. Due to major alterations and vandalism it is questionable that any original elements still exist.



We want to be clear that it is our position that the structure does not meet the criteria for significance established in the Municipal Code, and hence, we formally appeal the November 13th decision of the Board.

Respectfully,

Handwritten signatures of William and Juli Bertagnole. The signature for William is written above the signature for Juli.

William and Juli Bertagnole



Appeal before the Park City Board of Adjustment, April 15, 2014

Appeal of the Board Action of the Historic Preservation Board of Park City, Utah, November 13, 2013.

Project Address: 632 Deer Valley Loop

Project Number: PL13-02094

Type of Hearing: Determination of Significance

Hearing Date: November 13, 2013

Board Action: APPROVED

Bill and Juli Bertagnole, owners of 632 Deer Valley Loop, appeal certain of the finding of facts and conclusions of law in the Determination of Significance approved by the Board in the November 13, 2013, public hearing.

Summary of argument:

There were three separate building periods for this property: the earliest, about 1902 when a two room miner's shack was built; second, between 1912-1918, the building was enlarged with a large addition to the north, with a front porch and raised with a new roof structure which enclosed an attic storage space; and, lastly the 1960's when a lean-to addition was built on the back (south of the structure). The conclusion is clear that the building pictured in the photograph from the late 1930's is in the second building period 1912 - 1918.

Given the many alterations on the inside and outside of the structure over time there is not sufficient "historic" fabric remaining to warrant a preservation effort. Secondly, and at least as important, because of the fire in 1999, the building has been open to the weather for nearly 15 years and the extent of damage and rot is so severe that even the "historic" materials which remain are in very, very poor condition, perhaps beyond the point of any feasible effort to preserve.

The earliest owners were just simple Park City families and there is no record of any important person or event that occurred there. There is no evidence of any relationship to prostitution or the Red Light District except by location.

The Bertagnoles have no interest in restoration or repair and desire demolition or relocation; allowing them to sell a reasonable sized property for condominium development, copacetic with its surroundings and get a reasonable return on their investment of time and energy over the last 34 years of effort toward that outcome.

History of the structure: Summary of Building Development

According to documents archived by the Utah Bureau of Land Management and the United States Department of the Interior, we find the following:

"We are confident that George Thompson, the original occupant of the land in the Spring of 1902, built his home at the site believing that the land belonged to one of the mining companies of the day and probably with the permission of the mining company, as was the custom of the time in Park City."

"In the Park City area, many of the houses were built upon mining company property or claims. This was an accepted practice as the mining companies were interested in the mineral under the land and not the surface of the land. They needed miners and miners needed a place to live, so the companies allowed the miners to build houses upon their mine property."

The structure was first occupied in the Spring of 1902, when George Thompson built a "two room frame dwelling house" thereon."

George Thompson, had no deed and was not taxed from 1901 to 1904. When George and Elizabeth Thompson sold the property to Sven and Hannah Bjorkman in 1904, a Quit Claim Deed was created:

(Entry No. 12370)		THOMPSON vs BJORKMAN	
QUIT-CLAIM DEED.			
George Thompson and Elizabeth Thompson, his wife,			
grants of Park City, County of Summit, State of Utah, hereby			
Quit-Claim, as <u>Gwen and Hannah Bjorkman</u>			
of Spanish County, State of Utah, for the sum of <u>SIXTH (6000)</u> DOLLARS,			
the following described land, to wit: <u>land in Park City, Summit</u> County, State of Utah;			
That certain two (2) room frame dwelling house being and situated on the southerly side of what is known as <u>Reber Road</u> in Park City, Utah and in what is commonly known as <u>Deer Valley</u> said premises being situated between the dwelling house of Fred Hillstrom on the North and the Union Pacific Railroad Tracks, namely known as the "High Line" on the South together with all the improvements, outbuildings, stables and appurtenances thereto belonging and usually had and enjoyed therewith; together with all the rights, title, claim and interest of the said grantors, of, in and to the lands upon which said dwelling and buildings are situated;			
And being the same dwelling house erected by the said grantors in the spring of 1902 and occupied by them as a residence since said time.			
Witness, the hands of said grantors, this <u>27th</u> day of <u>July</u> , A. D. 1904.			
Signed in presence of		Elizabeth Thompson	
J. H. Lockhart as to mark of		George Thompson	
George Thompson		J. H. Lockhart	
State of Utah,		as this 27th day of July, A. D. 1904,	
County of Summit		personally appeared before me <u>George Thompson</u>	
		the signer of the above instrument, who duly acknowledged to me that he executed the same.	
		Notary Public	
My commission expires February 8, 1908.		James M. Lockhart	
Filed for record Book 718		1904, at D. J. M. by J. H. Lockhart	
(Abstracted to Park Plat Book 301)		F. H. Wright, County Recorder.	

History of Ownership:

The following is an unbroken chain of title for this structure from 1902 until 1981, when Bertagnoles bought the house from Harold E. and Mary Dudley:

	PAYOR		Levy	Payment	
	1901				1
	1902	George Thompson			2
	1903				3
	1904	Bjorkman, Sven & Hannah			4
Jan 34	1905	Wallberg, Ernest 6th on Sec St. [Heber Road]	1.25	—	5
Jan 25	1906	Wallberg, Ernest 6th on Sec St Heber Ave	1.44	1.44	6
Jan 94	1907	Hulmes, Willard	1.54	Ad	7
Jan 31	1908	Hulmes, Willard 7th house on Second Street Deer Valley	1.77	SALE	8
Jan 10	1909	Hulmes, Willard 7th house 2nd St. Deer Valley	1.85	SALE	9
#830	1910	Hulmes, Willard 7th house 2nd St. Deer Valley	1.70	1.70 subsequent	10
#3108	1911	Hojer, A.L. 7th house 2nd St. Deer Valley	1.70	1.96	11
#2602	1912	Hojer, Carl 7th house 2nd St. Heber Ave 2nd St. Deer Valley	2.03	2.03 SALE	12
#776	1913	Hojer, Carl Heber Ave 2nd St. 7th house	5.10	5.26 "subseq"	13
#597	1914	Hojer, Carl 7th house	5.93	5.98 subsequent	14
#597	1915	Hojer, Carl South Side Heber Ave & Second St. 7th house	2.03	2.03 subsequent	15
#602	1916	Hojer, Carl South Side Heber Ave & 2nd St. 7th	3.26	3.26	16
#708	1917	Hojer, Carl 7th house	3.79	3.79	17
#749	1918	Hojer, Carl 7th house South Side Deer Valley	5.36	5.36	18

"At some point between 1912 when he acquired the property, and 1918 when he disposed of it, Carl Hojer (also Hojer) enlarged the house to four rooms."

#1919	Simmons, Willis A	Deer Valley 7 house	6.31	6.31	19
in 1920	NOTE: SIMMONS, WILLIS A	listed in lot 12 BLK 14 SA NOT			20
3 #1921	Simmons, Willis A	House in near South side of Deer Valley St	5.21 5.21	5.21 5.21	21
#534 1922	Simmons, Willis A	11th house South side of Deer Valley St	8.18	18.18	22
#518 1923	Simmons, Willis A		13.89	13.89	23
#510 1924	Simmons, Willis A	11th	19.17	19.17	24

18.18 subsequent
 13.89 subsequent
 19.17 subsequent

PAYOR

LEVY

Payment

#518	1925	Simmons, Willis A	11th	9.45	9.45	25
#518	1926	Simmons, Willis A	11th	12.81	12.81	26
#525	1929	Simmons, Willis A	11th	16.39	16.29	27
#517	1928	Simmons, Willis A	11th	18.18	18.18	28
#516	1929	L. F. ANDERSON	11th	25.40	25.40	29
#524	1930	L. F. ANDERSON	11th on S.	11.17	11.17	1930
546	1931	Anderson, L. F. (C/o J. A. Johnson)		12.78	12.78	1931
522	1932	Anderson, L. F. (C/o Sidney Farley)		12.06	12.06	1932
#530	1933	Anderson, L. F. (C/o Sidney Farley)		12.87	12.87	33
#528	1934	Anderson, L. F. (C/o Sidney Farley)		11.48	1.48	34
131	1936	Anderson, L. F. (C/o Hazel Johnson)		5.42	5.42	35
506	1937	Anderson, L. F. (C/o Hazel Johnson)	11th	5.41	5.41	36
32	1938	Anderson, L. F. (C/o Hazel Johnson)	11th...	5.59	5.59	37
500	1939	Johnson, Harold		6.24	6.24	38
448	1940	Johnson, Harold	11th house	4.64	4.64	39
448	1941	Johnson, Harold	11th house	4.80	4.80	40
448	1942	Johnson, Harold	11th house	12.27	12.27	41
18	1943	"	11th	11.19	11.19	42
466	1944	"	11th	10.95	10.95	43
112	1945	Johnson, Harold	The 11th house & side of Oak Valley	11.69	11.69	44
112	1946	Harold Johnson		11.25	11.25	45
449	1947	Johnson, Harold (C/o Mrs. Lola Johnson)		12.25	12.25	46
449	1948	Johnson, Harold (C/o Mrs. Lola Johnson)		12.71	12.71	47
449	1949	Johnson, Harold (C/o Mrs. Lola Johnson) PC		13.11	13.11	48
112	1950	Summit Co. (L. F. Anderson) (EXEMPT)		11.48	11.48	49
539	1951	Summit County (Lola Johnson)		13.45	13.45	50
539	1952	Summit County (Lola Johnson)		11.48	11.48	51
1953		Summit County		exempt	(Ref 1/1/14)	52
1954		not listed				53
1955		Clara R & Lola Jordan, PC		14.65	14.65	54
1956		Clara R & Lola Jordan, PC		14.65	14.65	55
1957		Clara R & Lola Jordan, PC		15.44	15.44	56

Payor		Levy	Payment
1958	Clarence R & Lola Jordan PC	15.62	15.62 1954-56 delinquent Subsequent 58
1959	Clarence R & Lola Jordan PC	19.82	19.82 1957-58 delinquent Subsequent 58
1960	Clarence R & Lola Jordan PC	10.86	10.86 1959-60 delinquent Subsequent 58
1961	Clarence R & Lola Jordan, PC	9.20	9.20 61
1962	Clarence R & Lola Jordan, PC	9.34	9.34 62
1963	" " " Jordan PC	9.21	9.21 63
1964	Karl & Phyllis Gillett PC	9.37	9.37 64
1965	Karl & Phyllis Gillett, PC	10.72	10.72 65
1966	Karl & Phyllis Gillett PC	10.99	10.99 66
1967	Karl & Phyllis Gillett, PC	11.08	11.08 67
1968	Karl & Phyllis Gillett	10.96	—
1969	Karl & Phyllis Gillett	10.87	10.87
1970	Karl & Phyllis Gillett	11.05	— 10.20
1971	Karl & Phyllis Gillett	11.19	11.19
1972	Karl & Phyllis Gillett 11th house	21.35	—
1973	Harold E & Mary Dudley, PC 11th house	21.25	21.25
1974	" E " "	22.85	22.85
1975	Harold E & Mary Dudley	23.64	23.64
1976	↑ ↑ 11th house 8 side	32.50	32.50
1977	Harold E & Mary Dudley 11th house 8 side Over Valley	22.52	22.52
1978	Harold E. & Mary Dudley PC (A-632 Over Valley)	22.30	22.30
1979	" " " "	21.91	21.91
1980	" " " " 11th	112.08	112.08
1981	Bertagnole, Wm. T w/o Machine Smith	380.87	380.87

The following quit claim deeds show the evolution of the two room historic form transitioning into the four room structure.

Sven Bjorkman Hannah W. Bjorkman Ludwig Hoger
~~Sven Bjorkman and Hannah W. Bjorkman, his wife~~, of Daniels, Wasatch County, Vic,
 formerly of Park City, Utah, hereby convey and quit-claim to ~~Carl Hoger~~ Carl Hoger, of Park
 City, Summit County, Utah, for the sum of Twenty-Five Dollars, the following described prop-
 erty in Park City, Summit County, State of Utah, to-wit:-

That certain 2 room frame dwelling house being and situated on the southerly side
 of what is known as Weber Road in Park City, Utah, and in what is commonly known as Deer
 Valley, said premises being situated between the dwelling house of Fred Hillstrom on the
 north and the Union Pacific Railroad track, commonly known as the "High Line" on the south,
 together with all the improvements, outbuildings, stables, and appurtenances thereto be-
 longing, and usually had and enjoyed therewith; together with all the right, title, claim &
 interest of the said grantors of, in and to the lands upon which said dwelling and build-
 ings are situated: The said premises being the dwelling house erected by one George Thompson
 in the spring of 1902, and occupied by him as a residence until it was conveyed by him to
 this grantor on July 27th, 1914.

In witness whereof the grantors above named have hereunto set their hands this 27
 day of April, A.D., 1908

Doc. No. 216061 QUIT CLAIM DEED. 1912
Ludwig Hoger to Carl Hoger
Ludwig Hoger, grantor of Park City, County of Summit, State of Utah, hereby QUIT CLAIMS
~~the premises of the same place~~, for the sum of FIFTY AND NO/100 DOLLARS, the following
 described house and tract of land in Park City, Summit County, State of Utah:
 That certain two room frame dwelling house being and situated on the southerly side of
 what is known as Weber Road in Park City, Utah, and in what is commonly known as Deer
 Valley, said premises being situated between the dwelling house of Fred Hillstrom on
 the north and the Union Pacific Railroad track on the south, together with all the
 improvements, outbuildings, and appurtenances thereto belonging and usually had and
 enjoyed therewith, together with all the right, title, claim and interest of the grantor of,
 to and to the lands upon which said dwelling and buildings are situated.
 WITNESS, the hand of said grantor, this 10th day of January, A.D. one thousand nine
 hundred and twelve.

Doc. No. 21795. QUIT CLAIM DEED. 1918
Carl Hoger to Willis A. Simmons
~~Carl Hoger~~ grantor of Park City, County of Summit, State of Utah, hereby
 Quit Claim to ~~Willis A. Simmons~~ Willis A. Simmons grantee of the same place, for the sum of Four
 Hundred and no/100 (\$400.00) Dollars the following described tract of land and house
 in Park City, County, State of Utah
 That certain four room frame dwelling house being and situated on the
 southerly side of what is known as Weber Road in Park City, Utah, and what is common-
 ly known as Deer Valley, said premises being situated between the dwelling house of
 Fred Hillstrom on the north, and the Union Pacific Railroad track, commonly known as
 the "High Line" on the south; together with all the improvements, outbuildings,
 stables, and appurtenances thereto belonging and usually had and enjoyed therewith;
 together with all the right, title, and interest and claim of the said grantor of, in
 and to the lands upon which said dwelling and buildings are situated, and as now
 enclosed, said premises being the house erected by the grantor herein, and being the
 ground upon which was erected a house by George Thompson in the spring of 1902, and
 occupied as a residence until it was conveyed to this grantor.
 WITNESS, the hand of said grantor this 5th day of July, A. D. one thousand
 nine hundred and eighteen.

1. 1908: The "certain two room frame dwelling house" passes from Sven and Hannah Bjorkman to Ludwig Hoger.
2. 1912: Ludwig Hoger Quit Claims the two room structure to Carl Hoger.

3. 1918; Carl Hogar sells to Willis A. Simmons that certain **four room** frame dwelling house.

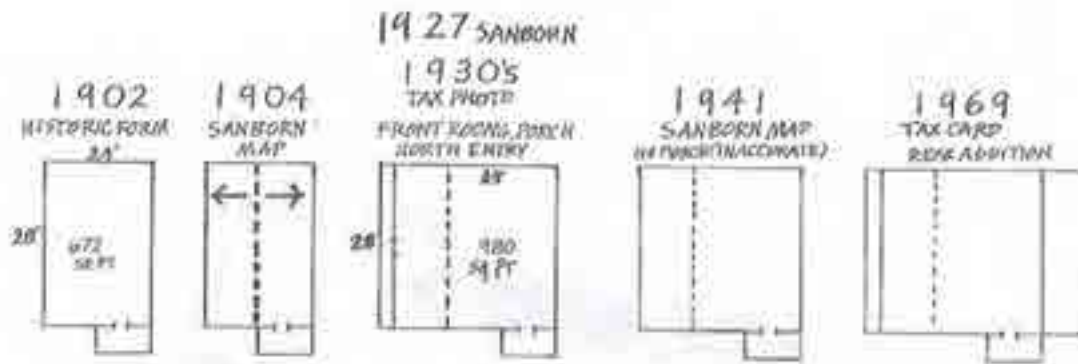
History of the Structure: Summary of Building Development

Quote from HPB November 13, 2013, Staff Report, p. 20:

The residential structure constructed at 632 Deer Valley Loop was originally built circa 1900. The 1900 Sanborn Fire Insurance maps did not include this portion of Park City as it was outside the dense development of Old Town. The structure first appears in the 1904 Sanborn map, however, as seen below, circled in red:



It is the **two room form** shown on the 1904 Sanborn map and not the larger 4 room shape apparent on the 1927 Sanborn map. The 1927 map actually shows the later addition of two rooms to the front of the miner's shack with a new front door on the North. The staff report mistakenly identifies the original miner's shack as an addition. The west side entry was not part of the back addition, (as stated in the Staff Report, p. 21), but is the original main entrance to the miner's shack. It was enclosed for a mud room and utilities in 1969, at the same time the rear addition finally obscured the original back wall of the miner's shack on the South, which is the modified form we see today.





1930's photo

The Bertagnoles take exception to the Historic Preservation Board's Determination of Significance **Finding of Fact** as follows:

Fact #3 (pg. 26)

"The existing structure has been in existence at 632 Deer Valley Loop since circa 1900.

Incorrect. The structure in the photo above is the four room structure built by Hogar in 1918.

"The structure appears in the 1904 and 1927 Sanborn Fire Insurance maps."

Incorrect. The structure in the 1904 map is the miner's shack. The 1927 map shows the 'add-ons' which compose the structure shown in the photo.

"Furthermore, the Historic Site Form contains tax cards of the structure from 1949, 1958, and 1969."

The information on the tax cards cannot be trusted. Those who filled out the cards transferred inaccurate information from year to year without measuring or updating changes. It was not until 1969 that the notations actually described the structure accurately.

"A late 1930's photo demonstrates that the overall form of the structure has not been altered."

Incorrect. It is the Essential Historical Form of the two room miner's shack, built by George Thompson, that appears on the 1904 Sanborn map, not the structure we see today. The structure we see today is the compilation of additions to the Essential Historic Form of the two room miner's shack, added on between 1912 and 1918 by Carl Hogar, which completely obscures the two room shack, lost inside the form we see today. It does not "demonstrate that the overall form of the structure has not been altered".

Fact #4:

"The Hall and Parlor structure and later rear addition were both constructed within the Mature Mining Era (1894-1930) and are historic."

On the 1968 tax card the rear addition shows up for the first time on the south, (back) wall of the building as a 60 sq. ft. addition, well past the Mature Mining Era. What has been mistakenly assumed to be a rear addition on the 1927 Sanborn map, is actually the original footprint of the back wall of the miner's shack. The change in form is the result of adding two rooms to the front, not an addition to the rear.

The location of the west porch, which was mistakenly assumed to have been moved to the back when the rear addition was added on, has actually always stayed where it was as the main entrance to the shack, and was never moved. The change of shape shown in the 1927 map is due to the addition of two rooms on the front of the building, expanding the structure to the north.

It is reasonable to assume the front porch, with railings and stairs, was actually built by Carl Hogar at the same time he made the front door, (1912 - 1918), otherwise, one could not access entry through the front door, as it sits around 6ft. above grade.

Although the 1933 tax photo clearly shows the front porch, for some reason, the addition of the porch does not appear on the tax cards until 1949.

Fact #11:

"The rear addition to the structure, dating to prior 1927, was severely damaged in a fire on May 17, 1999."

The rear addition was added in 1972, not before 1927, as per evidence of a sharp rise in taxes from \$11.19 to \$21.35 in 1972. The fire definitely damaged the rear addition as well as the remaining back wall and ceiling of the Essential Historic Form miner's shack. After the fire in 1999, the Bertagnoles were no longer able to collect \$800 each month in rent. Bertagnoles solicited bids from local builders for repair of the building. Bill Bertagnole remembers meeting with then Building Inspector, Ron Ivie, at the site, to inspect the damage. Ivie determined the building to be a Hazardous building, too dangerous to repair, and condemned it for demolition. Bill was ordered by the Park City Municipal Corporation not to try to repair the structure.

Meanwhile, Bertagnoles were engaged in a long running, (34 year) legal battle with the BLM which owned the ground it sits on, to allow him to buy the land so he could then demolish the structure and sell the property for development. If he demolished the building during the legal battle he would lose his rights to the ground and would destroy his evidence of good faith in having paid taxes on the structure for 19 years up to that point. Because the City would not

allow the Bertagnoles to repair the structure, another 15 years of exposure to the elements, animal habitation, squatters and vandalism have deteriorated the structure beyond repair. There is alternative for the Bertagnoles but to tear it down.

Development of Structure: Physical Evidence of Two Room Miners Shack:

A close examination of materials in the structure clearly reveals evidence of three distinct periods of development:

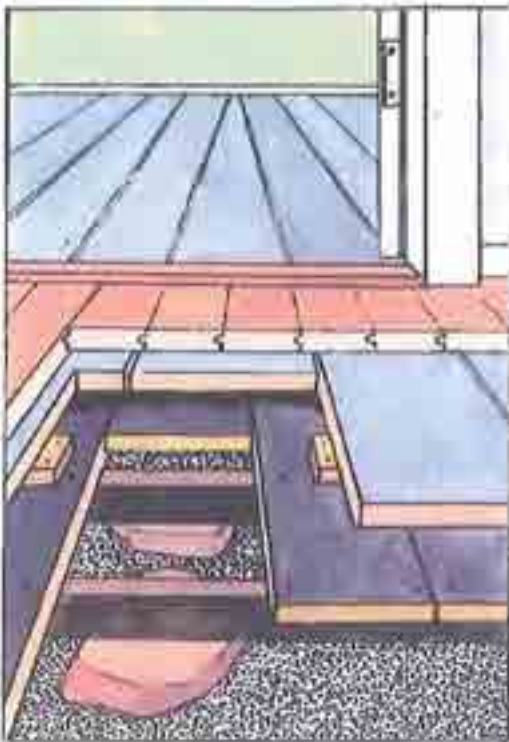
(1) The Two room miners shack built 1902: The west (side entry) door is the original door to the 12'X24' shack. The door opens into the 12' X 12' kitchen with the remnants of a brick chimney in the northeast corner. A center door on the east wall of the kitchen opens into a 12 X 12" bedroom. Both rooms share the oldest wood floor and a second wood floor. The kitchen has three layers of flooring, the oldest 3/4" X 9" (varying) planks, the middle floor of 3/4"X 12" planks, and the latest of tongue and groove fir installed with a major remodel in 1972. The kitchen has 8 layers of floor coverings with alternating layers of 3 types of linoleum with newspapers from 1965 and 1972 in between, and topped newer tongue and groove fir under two layers of carpet. The walls in the bedroom have 12 layers of covering over 12" horizontal plank walls; the earliest dating from cardboard and newspaper from 1933, then 4 layers of wallpaper, a 1947 newspaper, 3 layers of wallpaper and, finally, sheetrock and paint.

(2) The Four room form, 1912-1918: Two room front addition: The front two rooms (on north), have three layers of wall covering over varying sizes of horizontal planks:(1) cardboard backed wallpaper under (2)sheetrock under (3) vertical wood paneling. There is (1) floor of 3 1/2" tongue and groove, (2) linoleum and (3) carpet. These remnants indicate a much longer period of occupation in the original two rooms than in the later front addition.

(3) The rear (south) addition in 1972: Mostly destroyed in the fire of 1999.

Development of Structure: Physical Evidence: of the Two Room Shack: 2 ROOM KITCHEN-BEDROOM FLOOR

2 ROOM MINERS SHACK



← TONGUE & GROOVE

← MIDDLE FLOOR
← BOARDS SPAN
2 ROOMS

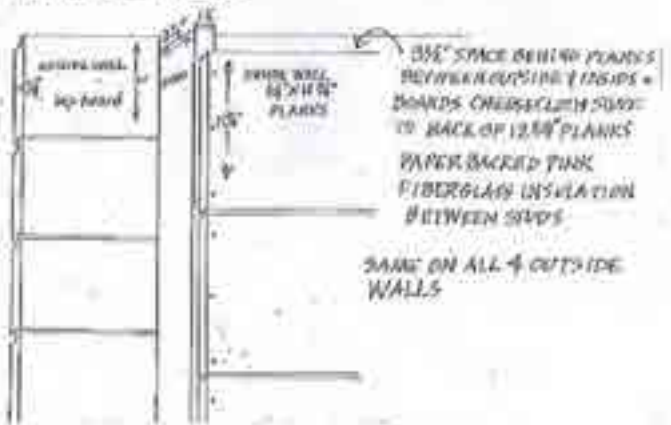
3/4" x 3/4" spacer
← OLD FLOOR

1 3/4" x 3/4" joists

ROCKS
← DIRT



OUTSIDE WALLS



BEDROOM WALL COVERINGS



KITCHEN FLOOR COVERINGS

2 ROOM MINERS SHACK, KITCHEN FLOOR COVERINGS



Development of Structure: Physical Evidence: of the Two Room Shack

LIVING ROOM FLOOR

TOP OF FIR

BOTTOM OF FIR



1. FIR TONGUE AND GROOVE 3/4" X 3 1/2"



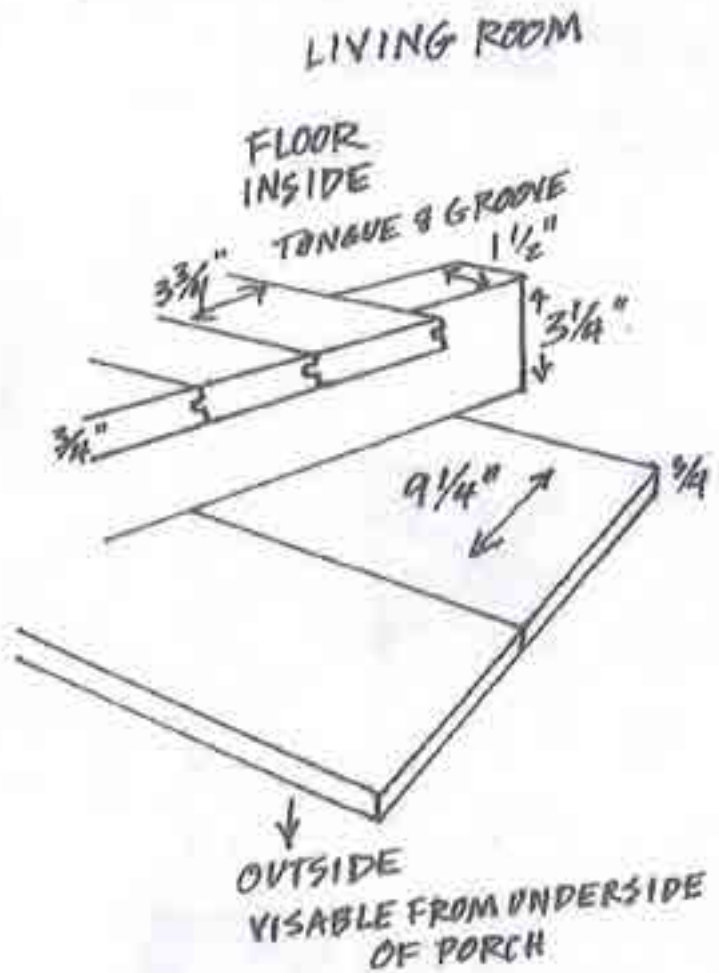
2. LINOLIMUM



3. RUG PAD



4. CARPET



(The following four pages consist of Baird Smith's letter to the Historic Preservation Board, dated February 12, 2014):

Baird M Smith, FAIA, FAPT
7223 Ludwood Court
Alexandria, VA 22306

12 February 2014

Historic Preservation Board - Park City
445 Marsac Ave.
Park City, Utah 84060

RE: 632 Deer Valley Loop

Dear Board Members,

Very briefly I want to give a little of my background and basis for making some comments regarding the historic designation recently placed on the above referenced property. I was born and raised in Salt Lake and then completed my architectural degree at the University of Utah in 1971. I was then drafted into the US Army and I was very fortunate to be stationed in our Nation's capital where I've remained since that time. From that point on, I became very interested in historic buildings because of the rich heritage in the mid-Atlantic area and began what has now stretched through four decades as a specialist in architectural preservation and preservation technology.

I have visited Park City off and on over the years and have been proud to witness the preservation work and the accomplishments in the balancing act between preservation of the old and fostering new development. I've been happy to funnel historic preservation materials to my older sister, Patricia, to aid in her work in Park City. During my most recent visit in mid-November of last year, we again toured the roads and lanes in Park City. She described the situation of her dear friends, the Bertagnoles, and their property on Deer Valley Loop. We toured the site and I was quite disturbed to hear of the recent actions of the HPB and offered to provide support where I could, hence this letter.

I was most disturbed that this building could be considered "historic" when compared to the overall stock of the older Park City buildings, and have urged the Bertagnoles to appeal the Nov. 13 determination and for my part, I provide the following:

Determination of Significance" - a counter argument

1. Applying the criteria for designating sites found in the Land Management Code to this property does not provide a complete analysis. At first glance, the criteria seem very typical and pretty much come straight from the similar Federal guidelines, with one very notable exception, there appears to be no consideration for the "context" or "setting" of the resource. This is a criteria to measure the integrity of the resource regarding the broader context of the surrounding historic buildings, site and landscape features. In discussing this with my sister Patricia, who participated in the official documentation for the three historic districts, it's clear that "context" did not need to be addressed in the early years because each of the designated historic districts was formulated to incorporate all the known resources. Historic "context" could be assumed, hence, it's not included as one of the criteria. This property is well outside the historic districts, and hence, it would be appropriate to expand the review criteria to include "context" and "setting."
[Please see attached page 2 from a National Register Bulletin entitled, "Defining Boundaries for National Register Properties," 1997.]
2. The historic "context" for this property has been entirely lost. The loss of context and setting are easily supported by a comparison of the number of buildings indicated on the Sanborn Maps included in the Nov. 13 staff report for this property. Please note that in the #1 map, there are a total of fourteen structures identified in the immediate vicinity of the subject property. This number decreases to eight by 1927 and now stands at only four. If the criteria of "context" is applied to this property, I don't see how any historic preservation professional can disagree with the fact that its historic context is lost.
3. The historic landscape features are lost. A brief analysis of the historic photograph of this property and a comparison to current conditions clearly indicates that virtually all of the historic landscape features are lost. This includes the fence, rock wall, plantings and outbuildings. A detached house such as this becomes pretty "nude" without the contextual landscape features. There is also now a modern intrusion to the immediate vicinity in the form of an adjacent roadway.

4. This property is a buck tooth in the remaining precinct. This building clearly is an outlier to the remaining three adjacent older buildings. It would be very hard to make the case that this building (red circle below), when considered with the other three, actually adds to the ensemble. It's an ugly buck tooth and it's preservation does not achieve any higher goal in my mind.



In the discussion above, I'm actually challenging the criteria included in the Land Management Code as being outdated. Use of these criteria would not provide a full evaluation of historic significance for buildings outside the established historic districts. I understand that a new comprehensive study of the historic resources is just beginning. Also, they will be updating the criteria to meet current Federal guidelines. I feel certain that a future evaluation of this property at that time with refined criteria would yield a finding of "no significance."

I've chosen to focus on what I consider limited criteria used in the designation of significance which I think by itself could cause the Board to overturn the earlier ruling. However, I understand that Patricia and the Bertagnoles have undertaken a focused examination of the building materials and condition of this structure and have some very interesting findings that raise important questions about the integrity of the older remaining materials. I concur with their findings and hope you'll give them serious consideration.

Lastly, if you will permit me an editorial comment. Park City is not alone in trying to address the preservation challenges of the 21st century. It is no longer enough to just establish that a building is old. I feel strongly that if preservation is mandated there must be a significant public benefit derived from the action. When this is the case, we are preserving and enhancing our cultural heritage. However, in some cases, when a building is remodeled and then upgraded, it is so altered that there is little or no measurable benefit to the preservation of resources. I'm afraid that would be the case if the significance ruling holds for the property at 632 Deer Valley Loop. Once this building is repaired and brought to code, and the building and site are improved to meet current life-style requirements, the historic fabric will be lost and unrecognizable. No historic preservation benefit will accrue to the public.

Thank you for your time and allowing me to participate in this manner.

Cordially,



Baird M. Smith, FAIA, FAPT
703-303-4075
cc: Bertagnole, P. Smith

An Argument for Integrity:

Park City Design Guidelines: 2009

The main body of information in Bertagnole's appeal deals with meeting criteria as presented in the Land Management Code regarding local Determination of Significance.

In conclusion, we would like to review Park City's Design Guidelines, which provide an overview of our agreed upon preservation philosophy in Park City:

"...the design guidelines are intended to fulfill the policy directives provided by the general plan and the Land Management Code."

Purpose of the Design Guidelines:

"For the Planning Department staff and the Historic Preservation Board, it offers a framework for evaluating proposed projects to ensure that decisions are not arbitrary or based on personal taste."

"...they provide applicants, staff, and the Historic Preservation Board with a foundation for making decisions and a framework for ensuring consistent procedures and fair deliberations."

Park City Design Guidelines: Historic Preservation Theory

Historic Preservation theory centers on two important principles:

Historical Significance and Integrity

The concept of Historical Significance:

In Park City, a site may be considered historic if:

- It is at least fifty years old,
- It is associated with events or lives of important people in the past,
- It embodies distinctive characteristics of type, a period, or construction method, or is the work of a notable architect or craftsman.

The concept of Integrity:

In addition to the historical significance, a property must also have **integrity**.

Integrity can be defined as:

"The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic period."

In the Historic Site Form- Historic Sites Inventory, Park City Municipal Corporation, October, 2008, 632 Deer Valley Loop is described as follows:

p.1, Item 4. Architectural Description & Integrity:

Building Type and/or style: Rectangular or "Hall-Parlor House

Comment: The original two room structure was a Miner's Shack, altered and added onto to resemble the hall-parlor style we see today.

Additions: minor, **Alterations:** major

Comment : More than 50% of the Hall-parlor form is actually additions. the structure is a compilation of additions and alterations.

p 2: Builder: Not known

Comment: We now know there were three stages to the development of the structure we see today: builders were George Thompson, 1902; Carl Hogar, 1918; and Karl and Phyllis Gillette, 1972.

p 3: General condition of exterior materials: Poor: major problems are apparent and constitute an imminent threat: Vacant. Slightly sagging roofline, missing shingles, boarded up and exposed window openings, unkempt property, staggered and missing boards along porch foundation, peeling paint, and missing sections of roofline gutters and boards.

Comment: Correct. We agree.

Materials: Foundation: Not visible and therefore material cannot be verified.

Comment: Actually there is no foundation. The front two room addition structure rests on a large telephone pole supporting the floor joists and the original back two room joists rest on flat rocks on the ground.

Walls: Vertical wooden boards, wooden trim, decorative metal porch supports, (no railings).

Comment: Actually, the exterior walls have three layers of material on the north, east and west sides, horizontal 7" X 3/4" drop-novelty wood siding, covered by Bricktex, which is then covered by manufactured vertical 4'X8' sheets of fake wood paneling. The back wall was destroyed with the rear addition and fire.

Roof: Undetermined shingle material (asphalt?) with metal cap endings along roofline edge.

Comment: Actually the top layer material is patterned asphalt shingles on top of an earlier layer of asphalt shingles over tar paper.

Windows: Collaboration of picture windows, aluminum single hung windows, and window openings, (windows missing).

Comment: The original double hung wood windows are lost. The existing front windows are aluminum trimmed stationary plate glass and the side windows are single hung aluminum. Remodeled by Karl and Phyllis Gillette in 1972, along with the addition to the rear on the south and a change of floor coverings in the kitchen.

Essential Historical Form: Retains.

Comment: Given the fact that the form we see today is the result of alterations and additions to the original two room structure, the Essential Historical Form has not been maintained and does not now exist.

Location: Original Location.

Comment: We agree.

Design: (the combination of physical elements that create the form, plan, space, and style. Describe additions and/or alterations from the original design, including dates-known or estimated- when alterations were made):

Building card indicates side room addition between 1949-1969. Siding is not likely original, neither are porch supports. The window configuration on the primary facade is also not typical of early mining era homes and is not likely original.

Comment: The original design of the structure is the two room miners shack built in 1902. The addition of two more rooms on the front, (north), occurred between 1912 and 1918. The addition on the back, (south), occurred in 1972.

Setting (The physical environment- natural or manmade of a historic site. Describe the setting and how it has changed over time):

Structure built on a sloped building lot above the roadway. Surrounding grounds and property unkempt and overgrown with naturally occurring grasses and terrain. Narrow building lot surrounded by what appears to be newer multifamily housing developments.

Comment: An overview of the setting through time reveals that the historic context of this building has been entirely lost. This finding is easily supported by a comparison of the segments from the Sanborn maps included in the Nov 13 staff report for this property. Please note that in the 1904 map, there are a total of 14 structures identified in the immediate vicinity of the subject property. This number decreases to 8 by 1927 and now stands at only 4. The historic landscape features are lost. A brief analysis of the historic photograph of this property and a comparison to current conditions clearly indicates that virtually all of the historic landscape features are lost. (This includes the fence, rock wall, plantings and outbuildings.)

Workmanship (The physical evidence of the crafts of a particular culture or people during a particular period in history. Describe the distinctive elements):

The physical evidence from the period that defines the typical Park City mining era home- simple methods of construction, the use of non-beveled (dropnovelty) wood siding, plan type, simple roof form, informal landscaping, restrained ornamentation, and plain finishes- have been altered and therefor, lost.

Comment: We agree.

Feeling (Describe the property's historic character.):

The physical elements of the site, in combination, do not effectively convey a sense of life in a western mining town of the late nineteenth century and early twentieth centuries.

Comment: We agree.

Association (Describe the link between the important historic era or person and the property.):

The Hall-Parlor house form is the earliest type to be built in Park City and one of the three most common house types built in Park city during the mining era.

Comment: Of the over 400 historically significant dwellings in Park City, this is one that has lost its integrity forever and would serve no purpose to restore.

Design Guidelines, Park City Municipal Corp.

"Another way to look at a site's integrity is to ask, "Would the person who built the structure still recognize it today?" Generally, the majority of the structure's materials, structural system, architectural details, and ornamental features, as well as the overall mass and form must be intact in order for a building to retain its integrity."

From Park City's Design Guidelines, 2008

Approach to Historic Sites:

Begin by evaluating the character of the site. What changes have been made to the site and its structure over time and were changes made during the historic period or later?

The structure has three building periods: (1) 1902, (2) 1912-1918, (3) 1972. The changes have been explained previously in this report. Two changes took place within the historic period, one addition in 1972.

Have windows been blocked or added, have additions been constructed, has the original plan been altered?

Yes.

Then, the architectural integrity and physical condition of the property should be assessed.

Are historic features hidden behind other materials?

Yes.

Are there physical problems that could lead to structural failure?

Yes.

Is there damage to materials that will require repair?

Yes.

If the materials cannot be repaired, can they be replaced in-kind?

Not likely and certainly not for any reasonable price.

Considered in the light of these basic questions regarding the structure's integrity, or loss thereof, this structure clearly **does not retain its original integrity** and **is not worthy of a determination of significance** as defined in Park City's Historic Preservation Theory as put forth in the Design Guidelines.

Given the new research presented in this report, it is clear the HPB erred in some of its findings and was incorrect in many factual matters regarding the structure. The Determination of Significance of the 632 Deer Valley Loop property was legally and factually incorrect.

The following statement is made on page 7 of the Historic Preservation Board's Staff Report to the Board of Adjustment, February 19, 2014:

"The structure at 632 Deer Valley Loop was once part of the larger Red Light District. Many of the structures that once made up this neighborhood have been lost; however, four (4) remain in close proximity to one another- 632 Deer Valley Loop; as well as 622, 652, and 660 Rossie Hill Drive. The relationship between these four (4) houses demonstrates the density of the Red Light District and this neighborhood that existed just outside the congestion of downtown."

The relationship between these four houses is weak: (1) as 632 sits above and alone on the hillside and has lost its context, as have the three remaining structures on Rossie Hill Drive which are obviously very different architecturally and obviously physically separated from the 632; (2) There is no evidence of "the Trade" taking place at any of these four houses, occupied by hard working families, and their connection to the Red Light District is by location only.

As it is, 632 will undoubtedly be surrounded on all sides by condos, eventually obscuring the structure from view from the public right of ways; a poor use of preservation dollars.

CONCLUSION:

We are requesting that the file on 632 Deer Valley Loop be re-evaluated by the Historic Preservation Board in the light of new findings of fact and hopefully come to a determination of non-significance for this structure.

Sincerely,

William T Bertagnole, Juli M Bertagnole 3/28/14
Bill and Juli Bertagnole, Owners of 632 Deer Valley Drive

Patricia E. Smith
Patricia E. Smith, Preservation Consultant

Research Sources:

Bureau of Land Management; U.S. Department of the Interior; Summit County Courthouse; Park City Historical Society; Park City Museum Library; Park City Library; the Park Record; Utah State Historical Society Library; Of Moths and Miners, Gary Kimball; Doris Webster LaFay, (interview); Worth Their Salt, Colleen Whitley; Treasure Mountain Home, Fraser Buck; Diggings and Doings, Raye Ringholtz; The Giddy Girls of Deer Valley Gulch, Lodestar, Vol.7, #2, Summer, 1984, David Hampshire; A History of Summit County, David Hampshire, Martha Sonntag Bradley, Allen Roberts;



Historic Preservation Board Staff Report

Planning Department

Author: Anya Grahn, Historic Preservation Planner
Subject: Historic Sites Inventory
Address: 632 Deer Valley Loop
Project Number: PL-13-02094
Date: November 13, 2013
Type of Item: Administrative – Determination of Significance

Summary Recommendation:

Staff recommends the Historic Preservation Board review the application, conduct a public hearing and confirm the status of 632 Deer Valley Loop as a Significant Site on the Park City Historic Sites Inventory.

Topic:

Project Name: 632 Deer Valley Loop
Applicant: Park City Municipal Corporation
Owners: William and Juli Bertagnole
Proposal: Determination of Significance

Background:

The Park City Historic Sites Inventory, adopted February 4, 2009, includes four hundred five (405) sites of which one hundred ninety-two (192) sites meet the criteria for designation as Landmark Sites and two hundred thirteen (213) sites meet the criteria for designation as Significant Sites. The existing structure at 632 Deer Valley Loop was added to the Inventory as a Significant Structure based on a reconnaissance level survey by then-Historic Preservation Consultant Dina Blaes in 2009. It had been previously identified as historic in a 1995 reconnaissance level survey, but was not included in the 1982 Historic District Architectural Survey.

During the reconnaissance-level survey, Dina noted that the Sanborn maps identified the structure as a “Hall-Parlor” home, but noted that the side addition had likely been added outside the Mature Mining Era, between 1949 and 1969. Sandborn Fire Insurance maps were used to determine the original shape of the home. Though the structure has retained its historic form, much of its historic integrity has been lost due to changes in its exterior materials. The wood siding material is not original, nor are the aluminum windows and doors. The porch supports have also been replaced. The second floor window opening has been lost as well, and a side porch appears to have been enclosed to create additional interior living space after 1969.

A fire on May 17, 1999, severely destroyed the rear of the structure. Though it had a negative impact on the rear addition, the remainder of the historic structure remained intact on the hall-parlor portion of the house. Years of deterioration and exposure to the elements should have resulted in greater damage and rapid decline of the exposed walls and roof joists; however, they are in surprisingly fair condition.

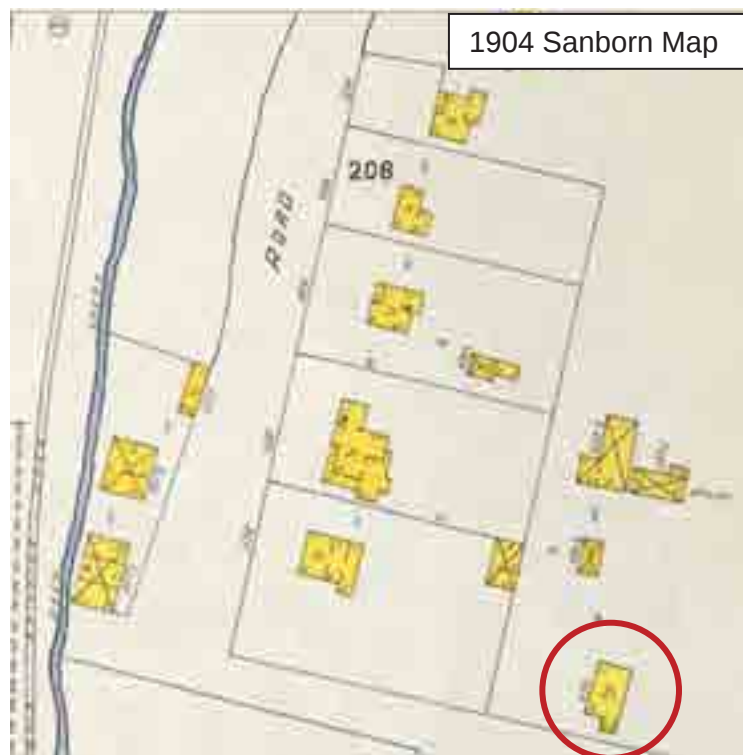
A trust deed was recorded at the Summit County Recorder's Office on May 2, 2013, transferring ownership from the Bureau of Land Management (BLM) to the Bertagnoles, following decades of litigation with the BLM. In August 21, 2013, a Notice and Order to Vacate and Demolish the structure was issued due to the fire damage and dilapidated state of the structure. The property owners would like to demolish the structure in order to accommodate new development; they do not believe it is historically significant.

Site visits have been made by the Chief Building Official and Planning Director.

Because of the limited information available in the HSI, the Planning Director has directed staff to conduct additional research to determine the historic significance of the 632 Deer Valley Loop site. The purpose of this staff report is to have the HPB review the criteria to determine whether the structure is a "Significant" site.

History of the Structure:

The residential structure constructed at 632 Deer Valley Loop was originally built circa 1900. The 1900 Sanborn Fire Insurance maps did not include this portion of Park City as it was outside the dense development of Old Town. The structure first appears in the 1904 Sanborn map, however, as seen below, circled in red



The one (1) story, side gable house was constructed as a hall-and-parlor. It appears, per the Sanborn maps, that the structure did not originally have a front porch. Nevertheless, it did have a porch on the west elevation, likely over a side entry, as shown in the 1927 Sanborn Map.



By 1927, a rear addition had been added across the south elevation of the structure. The side porch had also been relocated to this rear portion of the structure. A front porch had not yet been added, or was not identified by the Sanborn map.

A single photograph from the late-1930s tax assessment depicts the structure in much the same form as it exists today (Exhibit B). One-over-one double-hung windows framed the central entry door on the front porch. The front porch had a hip roof supported by turned porch posts. Horizontal railings framed the porch while vertical siding enclosed the area beneath it. On the west elevation, a side entry porch covered shielded a side door. The one-story rear addition is visible behind the porch. An attic entrance or window is provided at the top of the gable on the west elevation. This photograph documents the appearance of the structure during the Mature Mining Era.



Over the next four decades, the house suffered from a number of modifications that have significantly diminished its historic integrity. The 1949 appraisal card notes that the house was sided with Bricktex and the roofing was a patterned shingle. There was no foundation. A concrete block or brick foundation was noted in the 1958 tax assessment. Finally, the 1969 tax card notes a rear porch of about 60 square feet. It is likely that 60 square foot porch had existed all along as reflected in the Sanborn maps, but had not been identified on the tax cards.

After 1969, the house appears to have been renovated. The double-hung windows on the façade were removed and expanded to install larger, undivided rectangular windows. The original wood double-hung windows throughout were replaced by aluminum windows. The Bricktex siding was covered with new wood vertical siding, concealing the attic window. The turned wood porch posts were replaced with new decorative metal columns. A brick chimney was installed above the enclosed side porch that was later repaired with thick layers of Portland Cement. The following c.1990s photograph shows the house largely as it exists today.



On May 17, 1999, heavy smoke and flames were seen from the rear of the building. By the time first responders arrived, the door had been kicked in by bystanders. The back bedroom was fully engulfed in flames, leaving it scorched from floor to ceiling and compromising its roof structure. The fire was identified as suspicious with numerous points of origin; however, the current property owners have explained that the fire was likely caused by their tenant's pets knocking over a heat lamp above an iguana terrarium. Since that time, the Building Department has required the property to be secured and boarded; however, it has been difficult to secure the structure and there have been several reports of unauthorized access

Analysis and Discussion:

The Historic Preservation Board is authorized by Title 15-11-5(I) to review and take action on the designation of sites within the Historic Sites Inventory. The Historic Preservation Board may designate sites to the Historic Sites Inventory as a means of providing recognition to and encouraging the preservation of historic sites in the community (LMC 15-11-10). Land Management Code Section 15-11-10(A) sets forth the criteria for designating sites to the Park City Historic Sites Inventory.

Because the home does retain its historic form, the evidence supports the conclusion that the home is "Significant". A reconstruction of the home, which is necessary based on the structural integrity of the home raised by the Chief Building Official, would also allow the house and site to remain "Significant" based on the following definition:

Significant Site. Any buildings (main, attached, detached or public), accessory buildings and/or structures may be designated to the Historic Sites Inventory as a Significant Site if the Planning Department finds it meets all the criteria listed below:

(a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and (...) **Complies**

The structure was originally constructed circa 1900, and not later than 1910 making the structure 113 years old.

(b) It retains its Essential Historical Form, meaning there are no major alterations that have destroyed the Essential Historical Form. Major alterations that destroy the Essential Historical Form include:

- (i) Changes in pitch of the main roof of the primary façade if 1) the change was made after the Period of Historic Significance; 2) the change is not due to any structural failure; or 3) the change is not due to collapse as a result of inadequate maintenance on the part of the Applicant or a previous Owner, or
- (ii) Addition of upper stories or the removal of original upper stories occurred after the Period of Historic Significance, or
- (iii) Moving it from its original location to a Dissimilar Location, or
- (iv) Addition(s) that significantly obscures the Essential Historical Form when viewed from the primary public Right-of-Way. **Complies.**

The home retains its original historic form. The 1960s side addition does not detract or negatively impact the historic form of the structure. It could be removed if the owners chose to restore the structure as it has not achieved significance in its own right. Any future panelization or reconstruction will also preserve the historic hall-and-parlor form of the structure.

(c) It is important in local or regional history, architecture, engineering, or culture associated with at least one (1) of the following:

- (i) An era of Historic importance to the community, or
- (ii) Lives of Persons who were of Historic importance to the community, or
- (iii) Noteworthy methods of construction, materials, or craftsmanship used during the Historic period. **Complies.**

This structure contributes to our understanding of Park City's Mature Mining Era (1894-1930). The houses within Old Town and the historic district are the largest and best preserved group of residential buildings in a metal mining town in Utah. As such, they provide the most complete documentation of the residential character of mining towns of that period, including settlement patterns, building materials, construction techniques, and socio-economic make-up. These structures greatly add to our understanding of a significant aspect of Park City's economic growth and architectural development as a mining community.

The criteria for designating sites to the Park City Historic Sites Inventory as a Landmark Site include:

- (a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and

- (b) It retains its Historic Integrity in terms of location, design, setting, materials, workmanship, feeling and association as defined by the National Park Service for the National Register of Historic Places; and
- (c) It is significant in local, regional or national history, architecture, engineering or culture associated with at least one (1) of the following:
 - (i) An era that has made a significant contribution to the broad patterns of our history;
 - (ii) The lives of Persons significant in the history of the community, state, region, or nation; or
 - (iii) The distinctive characteristics of type, period, or method of construction or the work of a notable architect or master craftsman.

Staff finds that the structure at 632 Deer Valley Loop meets the standards for local “significant” designation, but does not meet the criteria for “landmark” designation. In order for the site to be designated as “landmark,” the structure would have to retain its historic integrity in terms of location, design, setting, materials, workmanship, feeling and association. Moreover, it would be eligible for the National Register. Due to the alterations, loss of its historic materials, and changes in window and door configuration, the structure is no longer eligible for the National Register of Historic Places.

Process:

The HPB will hear testimony from the applicant and the public and will review the Application for compliance with the “Criteria for Designating Historic Sites to the Park City Historic Sites Inventory.” The HPB shall review the Application “de novo,” giving no deference to the prior determination. If the HPB finds that the application does not comply with the criteria set forth in Section 15-11-10(A)(1) or Section 15-11-10(A)(2), the Building and/or structure will be removed from the Historic Sites Inventory. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

The Applicant or any party participating in the hearing may appeal the Historic Preservation Board decision to the Board of Adjustment. Appeal requests shall be submitted to the Planning Department ten (10) days of the Historic Preservation Board decision. Appeals shall be considered only on the record made before the HPB and will be reviewed for correctness.

Notice:

Legal Notice of this public hearing was published in the Park Record and posted in the required public spaces.

Public Input:

A public hearing, conducted by the Historic Preservation Board, is required prior to adding sites to or removing sites from the Historic Sites Inventory. The public hearing for the recommended action was properly and legally noticed as required by the Land Management Code. No public input was received at the time of writing this report.

Alternatives:

- Conduct a public hearing to consider the DOS for 632 Deer Valley Loop described herein and find the structure at 632 Deer Valley Loop meets the criteria for the designation of “Significant” to the Historic Sites Inventory according the draft findings of fact and conclusions of law, in whole or in part.
- Conduct a public hearing and find the structure at 632 Deer Valley Loop does not meet the criteria for the designation of “Significant” to the Historic Sites Inventory, and providing specific findings for this action.
- Continue the action to a date uncertain.

Significant Impacts:

There are no significant impacts on the City as a result of retaining the existing building described in this report to the Historic Sites Inventory as a “Significant” Structure.

Consequences of *not* taking the Recommended Action:

If no action is taken, no change will occur to the designation of 632 Deer Valley Loop on the Historic Sites Inventory. The structure will not be eligible for demolition.

If the Historic Preservation Board chooses to remove this site from the HSI, the structure will not be a designated historic site and will be eligible for demolition.

Recommendation:

Staff recommends the Historic Preservation Board conduct a public hearing and find that criteria have been met to continue the designation of 632 Deer Valley Loop as “Significant” within the Park City Historic Sites Inventory according to the following finding of fact and conclusions of law.

Finding of Fact:

1. 632 Deer Valley Loop is within the Residential-Medium Density (RM) zoning district.
2. There is an existing side gable hall-parlor structure at 632 Deer Valley Loop. This structure is currently listed on the Park City Historic Sites Inventory as a “Significant” Structure.
3. The existing structure has been in existence at 632 Deer Valley Loop since circa 1900. The structure appears in the 1904 and 1927 Sanborn Fire Insurance maps. Furthermore, the Historic Site Form contains tax cards of the structure from 1949, 1958, and 1969. A late-1930s tax card photo also demonstrates that the overall form of the structure has not been altered.
4. The hall-and-parlor structure and later rear addition were both constructed within the Mature Mining Era (1894-1930) and are historic.
5. Though out of period, the enclosed side porch entrance added in the 1960s does not detract from the historic significance of the structure.
6. The existing structure is in serious disrepair and is not habitable in its current dangerous condition.

7. There is very little original exterior materials remaining on the exterior of the home. The original wood lap siding has been covered by layers of Bricktex and vertical wood siding
8. The double-hung windows on the façade were removed and expanded to install larger, undivided rectangular windows after 1969. The original wood double-hung windows throughout were replaced by aluminum windows.
9. After 1969, the turned wood porch posts were replaced with new decorative metal columns. A brick chimney was installed above the enclosed side porch that was later repaired with thick layers of Portland Cement.
10. The structure is a hall-parlor plan and typical of the Mature Mining Era.
11. The rear addition of the structure, dating prior to 1927, was severely damaged in a fire on May 17, 1999.
12. The site meets the criteria as Significant on the City's Historic Sites Inventory.
13. Built circa 1900, the structure is over fifty (50) years old and has achieved Significance in the past fifty (50) years.
14. Though the structure has lost its historic integrity due to the out-of-period alterations to its historic materials, it has retained its historical form. The out-of-period addition to the west elevation of the structure does not detract from its historic significance.
15. The structure is important in local or regional history because it is associated with an era of historic importance to the community, the Mature Mining Era (1894-190).

Conclusions of Law

1. The existing structure located at 632 Deer Valley Loop meets all of the criteria for a Significant Site as set forth in LMC Section 15-11-10(A)(2) which includes:
 - (a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and
 - (b) It retains its Essential Historical Form, meaning there are no major alterations that have destroyed the Essential Historical Form. Major alterations that destroy the Essential Historical Form include:
 - (i) Changes in pitch of the main roof of the primary façade if 1) the change was made after the Period of Historic Significance; 2) the change is not due to any structural failure; or 3) the change is not due to collapse as a result of inadequate maintenance on the part of the Applicant or a previous Owner, or
 - (ii) Addition of upper stories or the removal of original upper stories occurred after the Period of Historic Significance, or
 - (iii) Moving it from its original location to a Dissimilar Location, or
 - (iv) Addition(s) that significantly obscures the Essential Historical Form when viewed from the primary public Right-of-Way.
 - (c) It is important in local or regional history, architecture, engineering, or culture associated with at least one (1) of the following:
 - (i) An era of Historic importance to the community, or
 - (ii) Lives of Persons who were of Historic importance to the community, or

(iii) Noteworthy methods of construction, materials, or craftsmanship used during the Historic period.

Exhibits:

Exhibit A – Historic Sites Inventory Form, 2008

Exhibit B – Historic photograph, late-1930s

Exhibit C – Letter from Principal Allen Roberts, CRSA

Exhibit D – Photographs from site visits

HISTORIC SITE FORM - HISTORIC SITES INVENTORY

PARK CITY MUNICIPAL CORPORATION (10-08)

1 IDENTIFICATION

Name of Property:

Address: 632 DEER VALLEY LOOP RD

AKA:

City, County: Park City, Summit County, Utah

Tax Number: PC-537

Current Owner Name: BERTAGNOLE WILLIAM T & JULI M TRUSTEES Parent Parcel(s):

Current Owner Address: 1600 LUCKY JOHN DR, PARK CITY, UT 84060-6948

Legal Description (include acreage): 11TH HOUSE S SIDE DEER VALLEY PARK CITY(#632 DEER VALLEY); ALSO DESC AS BEG S 42°52'44" E 1038.31 FT FROM E1/4 COR SEC 16 T2SR4E SLBM; TH S 76°43' E 116.60 FT; TH S 9°17' W 83.58 FT; TH S 80°29' W 129.40 FT; TH N 14°51' E 51.12 FT; TH N 10°39' E 82.35 FT TO BEG CONT 0.29

2 STATUS/USE

Property Category

- ☒ building(s), main
☐ building(s), attached
☐ building(s), detached
☐ building(s), public
☐ building(s), accessory
☐ structure(s)

Evaluation*

- ☐ Landmark Site
☒ Significant Site
☐ Not Historic

Reconstruction

- Date:
 Permit #:
☐ Full ☐ Partial

Use

- Original Use: Residential
 Current Use: Residential

*National Register of Historic Places: ☒ ineligible ☐ eligible
☐ listed (date:)

3 DOCUMENTATION

Photos: Dates

- ☐ tax photo:
☒ prints: 1995 & 2006
☐ historic: c.

Drawings and Plans

- ☐ measured floor plans
☐ site sketch map
☐ Historic American Bldg. Survey
☐ original plans:
☐ other:

Research Sources (check all sources consulted, whether useful or not)

- ☐ abstract of title
☐ tax card
☐ original building permit
☐ sewer permit
☒ Sanborn Maps
☐ obituary index
☐ city directories/gazetteers
☐ census records
☐ biographical encyclopedias
☐ newspapers
☒ city/county histories
☐ personal interviews
☐ Utah Hist. Research Center
☐ USHS Preservation Files
☐ USHS Architects File
☐ LDS Family History Library
☐ Park City Hist. Soc/Museum
☐ university library(ies):
☐ other:

Bibliographical References (books, articles, interviews, etc.) Attach copies of all research notes and materials.

Blaes, Dina & Beatrice Lufkin. "Final Report." Park City Historic Building Inventory. Salt Lake City: 2007.

Carter, Thomas and Goss, Peter. *Utah's Historic Architecture, 1847-1940: a Guide*. Salt Lake City, Utah:

University of Utah Graduate School of Architecture and Utah State Historical Society, 1991.

McAlester, Virginia and Lee. *A Field Guide to American Houses*. New York: Alfred A. Knopf, 1998.

Roberts, Allen. "Final Report." Park City Reconnaissance Level Survey. Salt Lake City: 1995.

Roper, Roger & Deborah Randall. "Residences of Mining Boom Era, Park City - Thematic Nomination." National Register of Historic Places Inventory, Nomination Form. 1984.

4 ARCHITECTURAL DESCRIPTION & INTEGRITY

Building Type and/or Style: Rectangular or "Hall-Parlor" House

No. Stories: 1½

Additions: ☐ none ☒ minor ☐ major (describe below) Alterations: ☐ none ☐ minor ☒ major (describe below)

Researcher/Organization: Preservation Solutions/Park City Municipal Corporation Date: 12-2008

Number of associated outbuildings and/or structures: ☐ accessory building(s), # ____; ☐ structure(s), # ____.

General Condition of Exterior Materials:

☐ Good (Well maintained with no serious problems apparent.)

☐ Fair (Some problems are apparent. Describe the problems.):

☒ Poor (Major problems are apparent and constitute an imminent threat. Describe the problems.): Vacant. Slightly sagging roofline, missing shingles, boarded up and exposed window openings, unkempt property, staggered and missing boards along porch foundation, peeling paint, and missing sections of roofline gutters and boards.

☐ Uninhabitable/Ruin

Materials (The physical elements that were combined or deposited during a particular period of time in a particular pattern or configuration. Describe the materials.):

Foundation: Not visible and therefore its material cannot be verified

Walls: Vertical wooden boards, wooden trim, decorative metal porch supports (no railings)

Roof: Undetermined shingle material (asphalt?) with metal cap endings along roofline edge

Windows: Collaboration of picture windows, aluminum single hung windows, and window openings (windows missing).

Essential Historical Form: ☒ Retains ☐ Does Not Retain, due to:

Location: ☒ Original Location ☐ Moved (date _____) Original Location:

Design (The combination of physical elements that create the form, plan, space, structure, and style. Describe additions and/or alterations from the original design, including dates--known or estimated--when alterations were made): Building card indicates side room addition between 1949-1969. Siding is not likely original, neither are the porch supports. The window configuration on the primary façade is also not typical of early mining era homes and is not likely original.

Setting (The physical environment--natural or manmade--of a historic site. Describe the setting and how it has changed over time.): Structure built on a sloped building lot above the roadway. Surrounding grounds and property unkempt and overgrown with naturally occurring grasses and terrain. Narrow building lot surrounded by what appears to be newer multi-family housing developments.

Workmanship (The physical evidence of the crafts of a particular culture or people during a given period in history. Describe the distinctive elements.): The physical evidence from the period that defines the typical Park City mining era home--simple methods of construction, the use of non-beveled (drop-novelty) wood siding, plan type, simple roof form, informal landscaping, restrained ornamentation, and plain finishes--have been altered and, therefore, lost.

Feeling (Describe the property's historic character.): The physical elements of the site, in combination, do not effectively convey a sense of life in a western mining town of the late nineteenth and early twentieth centuries.

Association (Describe the link between the important historic era or person and the property.): The Hall-Parlor house form is the earliest type to be built in Park City and one of the three most common house types built in Park City during the mining era.

The extent of and cumulative effect of the alterations render it ineligible for listing in the National Register of Historic Places.

5 SIGNIFICANCE

Architect: ☒ Not Known ☐ Known: (source:)

Date of Construction: c. 1900¹

¹ Summit County Recorder.

Builder: ☒ Not Known ☐ Known: (source:)

The site must represent an important part of the history or architecture of the community. A site need only be significant under one of the three areas listed below:

1. Historic Era:

- ☐ Settlement & Mining Boom Era (1868-1893)
- ☒ Mature Mining Era (1894-1930)
- ☐ Mining Decline & Emergence of Recreation Industry (1931-1962)

Park City was the center of one of the top three metal mining districts in the state during Utah's mining boom period of the late nineteenth and early twentieth centuries, and it is one of only two major metal mining communities that have survived to the present. Park City's houses are the largest and best-preserved group of residential buildings in a metal mining town in Utah. As such, they provide the most complete documentation of the residential character of mining towns of that period, including their settlement patterns, building materials, construction techniques, and socio-economic make-up. The residences also represent the state's largest collection of nineteenth and early twentieth century frame houses. They contribute to our understanding of a significant aspect of Park City's economic growth and architectural development as a mining community.²

2. Persons (Describe how the site is associated with the lives of persons who were of historic importance to the community or those who were significant in the history of the state, region, or nation):

3. Architecture (Describe how the site exemplifies noteworthy methods of construction, materials or craftsmanship used during the historic period or is the work of a master craftsman or notable architect):

6 PHOTOS

Digital color photographs are on file with the Planning Department, Park City Municipal Corp.

Photo No. 1: Northwest oblique. Camera facing southeast, 2006.

Photo No. 2: Southeast oblique. Camera facing northwest, 2006.

Photo No. 3: East elevation. Camera facing west, 2006.

Photo No. 4: Northwest oblique. Camera facing southeast, 1995.

² From "Residences of Mining Boom Era, Park City - Thematic Nomination" written by Roger Roper, 1984.

SERIAL NO.
RE-APPRAISAL CARD (1940 APPR. BASE)

Owner's Name _____
 Owner's Address _____
 Location _____
 Kind of Building RES Street No. _____
 Schedule 1 Class 3 Type 2 Cost \$ _____ X %

Stories	Dimensions	Cu. Ft.	Sq. Ft.	Actual Factor	Totals
<u>1</u>	<u>x x</u>		<u>672</u>		<u>1331</u>
	<u>x x</u>				
	<u>x x</u>				

 No. of Rooms 4 Condition Fair

Description of Building	Add	Deduct
Foundation—Stone—Cone—None <u>✓</u>		<u>100</u>
Ext. Walls <u>BRICK-TEX</u>		
Insulated—Floors—Walls—Clns		
Roof—Type <u>GAB</u> Mat <u>PAT SH</u>		
Dormers—Small—Med—Lg		
Bays—Small—Med—Lg		
Porch—Front <u>112</u> <u>70</u> <u>78</u>		
Rear <u>0</u>		
Cellar—Basmt— $\frac{1}{4}$ $\frac{1}{4}$ $\frac{1}{2}$ $\frac{3}{4}$ full-floor <u>1487</u>		
Basement Apts.—Rooms Fin.		
Attic Rooms—Fin—Unfin		
Plumbing—{Class—Tub—Trays Basin—Sink—Toilet Urns—Ftns—Shr. Dishwasher—Garage Disp.	<u>120</u>	
Heat—Stove—H. A.—Steam—S—Br. Oil—Gas—Coal		
Air Conditioned—Incinerators		
Radiant—Pipeless		
Finish—{Hd. Wd—Floors—{Hd. Wd— Flr.—Ftr.—Conc.		
Cabinets—Mantels		
Tile—{Walls—Wainscot Floors		
Lighting—Lamp—Drops—Fix <u>WOOD LINDY</u>		<u>100</u>
Total Additions and Deductions	<u>198</u>	<u>208</u>
Net Additions or Deductions		<u>1331</u>

REPRODUCTION VALUE \$ 1325
 Depr. 12-3-4-5-6 50/48 %
 Reproduction Val. Minus Depr. \$ 556
 Remodeled—Est. Cost—Remodeling Inc. %
 Garage—S & O—Depr. 2% 5%
 Cars—Walls—Out Bldgs.
 Roof—Size—x—Age
 Floor—Cost—Depreciated Value Garage
 Remarks AL AGE 37 YRS. REMODEL Total Building Value \$
ON CUB CARD (1940)

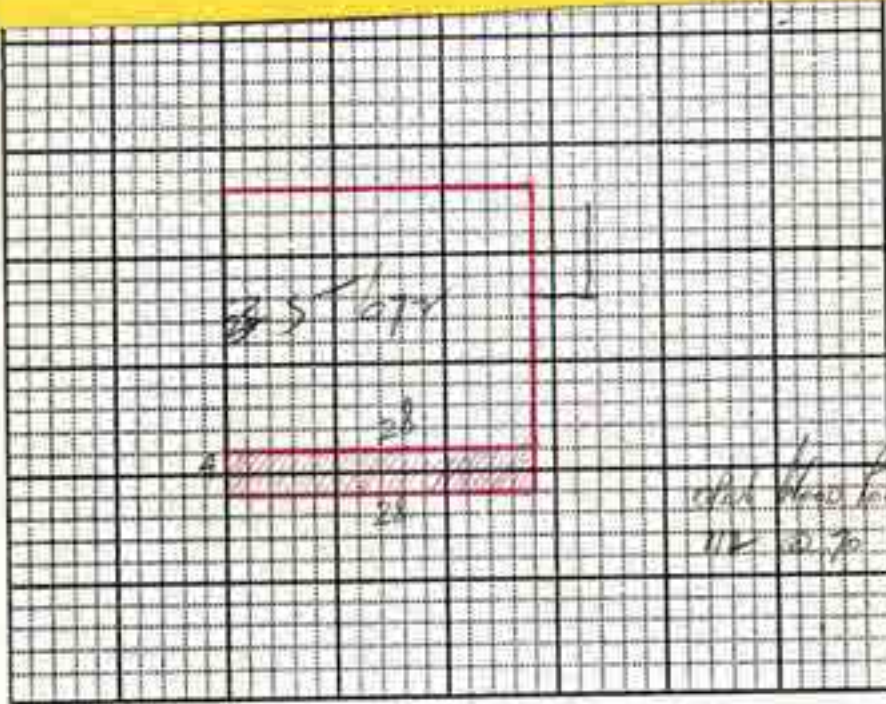
RECORD OF ASSESSMENT OF IMPROVEMENTS

Summit COUNTY SERIAL NO.

OWNER'S NAME Johnson, Harold

OWNER'S ADDRESS Park City

LOCATION 11th House S. Side of Deer Valley

[illegible]

Location _____

Kind of Bldg. RES St. No. 632 Deer Valley

Class 3 Type 1 2 3 4 Cost \$ 1283 X 100 %

Stories	Dimensions	Cu. Ft.	Sq. Ft.	Factor	Totals
1	x x		672		\$ 1383
	x x				
	x x				

Gar.—Carport x Flr. Walls Cl.

Description of Buildings	Additions
Foundation—Stone <u>Concrete</u> None	
Ext. Walls <u>Brick</u>	
Insulation—Floors <u>Walls</u> <u>Cls.</u>	
Roof Type <u>Gab.</u> Mtl. <u>013</u>	
Dormers—Small <u>Med.</u> <u>Large</u>	
Bays—Small <u>Med.</u> <u>Large</u>	
Porches—Front <u>112</u> <u>90</u>	90
Rear <u>0</u>	
Porch <u>0</u>	
Metal Awnings <u>0</u> M.U. Rail <u>0</u>	
Basement Entr. <u>0</u>	
Planters <u>0</u>	
Cellar-Basmt. — $\frac{1}{4}$ $\frac{1}{2}$ $\frac{3}{4}$ $\frac{1}{2}$ $\frac{1}{4}$ Full <u>0</u> Floor <u>0</u>	
Basmt. Apt. <u>0</u> Rooms Fin. <u>0</u> Unfin. <u>0</u>	
Attic Rooms Fin. <u>0</u> Unfin. <u>0</u>	
Plumbing { Class <u>1</u> Tub <u>0</u> Trays <u>0</u> Basin <u>0</u> Sink <u>0</u> Toilet <u>0</u> Wtr. Sfr. <u>0</u> Shr. St. <u>0</u> O.T. <u>0</u> Dishwasher <u>0</u> Garbage Disp. <u>0</u>	350
Built-in Appliances <u>0</u>	
Heat—Stove <u>0</u> H.A. <u>0</u> Steam <u>0</u> Stkr. <u>0</u> Blr. <u>0</u>	
Oil <u>0</u> Gas <u>0</u> Coal <u>0</u> Pipeless <u>0</u> Radiant <u>0</u>	
Air Cond. <u>0</u>	
Finish—Fir <u>0</u> Hd. Wd. <u>0</u>	
Floor—Fir <u>0</u> Hd. Wd. <u>0</u> Other <u>0</u>	
Cabinets <u>0</u> Mantels <u>0</u>	
Tile—Walls <u>0</u> Wainscot <u>0</u> Floors <u>0</u>	
Storm Sash—Wood D. <u>0</u> S. <u>0</u> ; Metal D. <u>0</u> S. <u>0</u>	
Total Additions	440
Year Built <u>1945</u> Avg. <u>54</u> Current Value <u>\$ 1123</u>	
Inf. by { Owner - Tenant - Neighbor - Record - Est.	Commission Adj. <u>0</u> %
Remodel Year <u>0</u> Est. Cost <u>0</u>	Bldg. Value <u>0</u>
	Depr. Col. <u>1 2 3 4 5 6</u> <u>3.2</u> %
	Current Value Minus Depr. <u>\$ 602</u>
Garage—Class <u>0</u> Depr. 2% 3% <u>0</u> Carport <u>0</u> Factor <u>0</u>	
Cars <u>0</u> Floor <u>0</u> Walls <u>0</u> Roof <u>0</u> Doors <u>0</u>	
Size <u>0</u> x <u>0</u> Age <u>0</u> Cost <u>0</u> x <u>0</u> %	
Other <u>0</u>	
Total Building Value	\$

Appraised 5-16-78 19 78 By 1302

Pc 537

Serial Number

OF
Card Number

Owners Name

Location

Kind of Bldg.

St. No.

Class

Type

X 100 %

Stories	Dimensions	Sq. Ft.	Factor	Totals	Totals
1	x x	980		\$ 2788	\$
	x x				
	x x				

Att. Gar. — C.P. — x — Flr. — Walls — Cl. —

Description of Buildings

Foundation — Stone B.R. Conc. — Sills

Ext. Walls — B.R. T-x — (A)

Roof Type — GAB — Mtl. — P.I.

Dormers — Small — Med. — Large

Bays — Small — Med. — Large

Porches — Front — 112 @ 75 84

Rear — 60 @ 100 60

Porch — @

Planters — @

Ext. Base Entry — @

Cellar-Bsmt. — 1/4 1/2 3/4 Full — Floor

Bsmt. Gar.

Basement-Apt. — Rms. — Fin. Rms.

Attic Rooms Fin. — Unfin.

Plumbing — Class — 1 — Toh — 1 — Trays —

Basin — 1 — Sink — 1 — Toilet — 1

Wtr. Sfr. — Shr. St. — O.T.

Dishwasher — Garbage Disp. — 550

Heat — Stove — X H.A. — FA — HW — Sks — Elec.

Oil — Gas — Coal — A — Pipeless — Radiant

Air Cond. — Full — Zone

Finish — Flr. — Hd. Wd. — Panel

Floor — Fir. — Hd. Wd. — Other

Cabinets — 1 — Mantels

Tile — Walls — Wainscot — Floors

Storm Sash — Wood D. — S. — Metal D. — S.

Awnings — Metal — Fiberglass

Total Additions 694

Year Built 1904 Avg. 1904 Replacement Cost 3482

No. 946 AGE Age 2. Obsolescence

Inf. by (Owner) Tenant - Adj. Bld. Value

Neighbor - Record - Est. Conv. Factor x.47

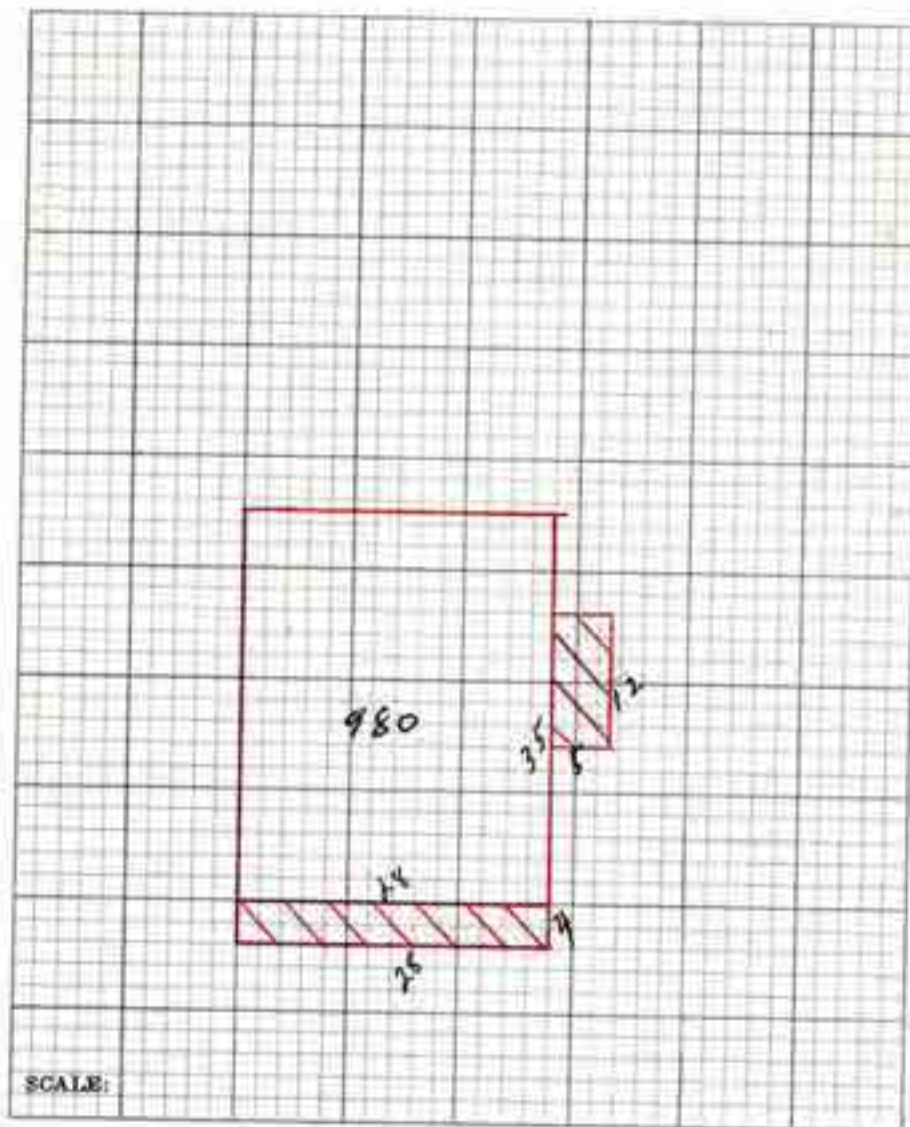
Replacement Cost — 1940 Base

Depreciation Column 2 4 5 6

1940 Base Cost, Less Depreciation

Total Value from reverse side

Total Building Value \$



SCALE:

RESIDENTIAL OUT BUILDINGS	Age	Size	Area	Factor	Cost	Conv. Fac.	Adj. Cost	Depr. Value
		x				.47		
		x				.47		
		x				.47		
		x				.47		
		x				.47		
		x				.47		
		x				.47		

Garage — Class _____ Depr. 2% 3%

Cars _____ Floor _____ Walls _____ Roof _____ Doors _____

Size _____ x _____ Age _____ Cost _____ x 47%

1940 Base Cost _____ x _____ % Depr. _____

Total _____

REMARKS _____











October 18, 2013

To: Anya Grahn, Preservation Planner, Park City

From: Allen Roberts, AIA, Preservation Consultant, CRSA

In response to the City's request to assess the age of the house at 632 Deer Valley Loop, I provide the following information:

- 1) A c. 1940 photograph taken from the same angle as the photo in the City's 2012 Historic Sites Inventory shows the house to be a c. 1900 (+/- 10 years) residence. The earlier photo clearly shows its turned-wood Victorian columns, "novelty" wood siding, small-paned windows (as used prior to the arrival of the railroad), corbelled brick chimney and simple, hall-parlor floor plan—all evidence of a c. 1900 structure.
- 2) A small, shed-roofed room was added to the right, rear corner of the house, much later than the initial construction.
- 3) The information on the property's tax card also indicates that the main residence dates from the turn-of-the-century period.
- 4) The building's exterior has been altered and its architectural integrity compromised, with newer porch columns, windows and siding, which obscure the original materials and design. The historic corbelled chimney remains intact, however, as does the basic form of the exterior massing.

In summary, the house's exterior materials and design elements were in common use in Park City from the 1870s until about 1910 when newer materials and styles were introduced. While we have not discovered an exact date of construction, it is highly unlikely that the residence was constructed after about 1910, and it could have been built considerably earlier.

Respectfully submitted,



Allen Roberts, AIA

President, CRSA

632 Deer Valley Loop Photographs



Northwest Corner



West Elevation



Northwest Corner



North Elevation (façade)



Northeast Corner



Close-up of East Elevation



East Elevation (note fire damage)



Southeast Corner



South Elevation



Fire Damage on South Elevation



Fire damage at southeast corner



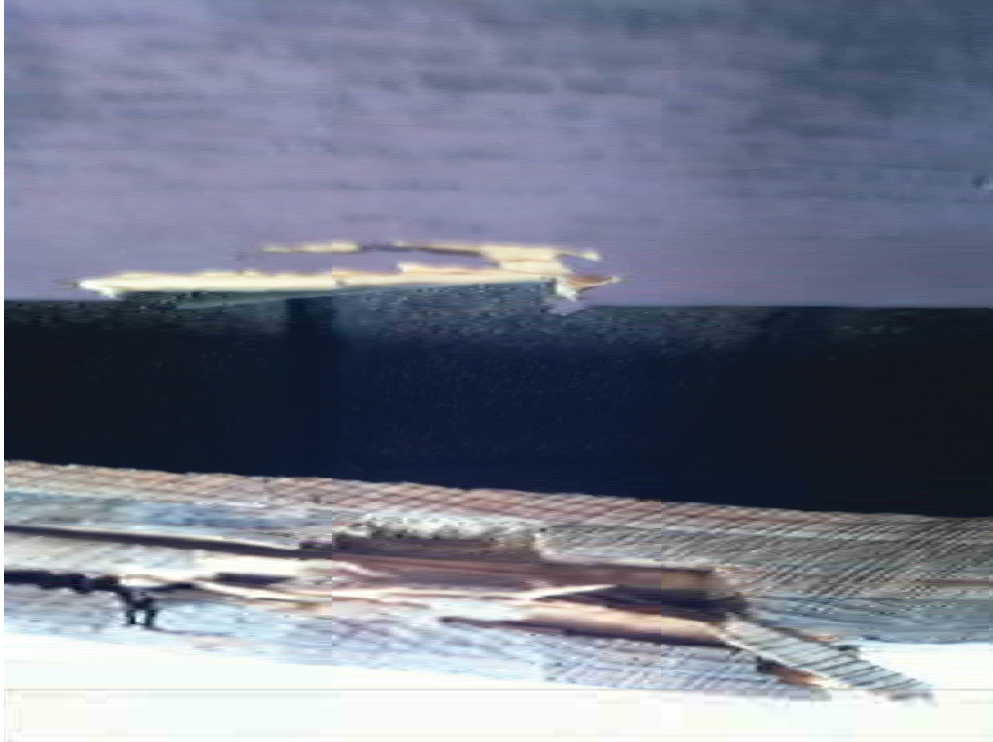
Exposed roof eave, showing old growth timber



Wood floorboards on porch



Dilapidated vertical wood siding used on porch (as seen in 1930s tax photo)



Bricktex beneath vertical wood siding. The original wood lap siding is likely beneath this layer of Bricktex.



Original wood trim. Note the reveal. Layers of Bricktex and vertical wood siding have hidden much of the reveal on this original trim.



Original wood trim. Note the reveal. Layers of Bricktex and vertical wood siding have hidden much of the reveal on this original trim.



Charred ceiling structure, interior



Charred bead-board ceiling in kitchen



Antique nail and charred roof structure, interior



Fire-damaged rear addition. Note the horizontal lumber atop vertical studs.



Historic paneled wood door with antique hardware.



Historic interior wood window trim in front bedroom.



Wall paper applied atop wood wall structure

PARK CITY MUNICIPAL CORPORATION
HISTORIC PRESERVATION BOARD
MINUTES OF NOVEMBER 13, 2013

BOARD MEMBERS IN ATTENDANCE: David White, Chair Pro Tem - Puggy Holmgren, Marian Crosby, John Kenworthy, Gary Bush Hope Melville, Clayton Vance

EX OFFICIO: Kayla Sintz, Anya Grahn, Polly Samuels McLean, Patricia Abdullah

ROLL CALL

Chair Pro-Tem White called the meeting to order at 5:08 p.m. and noted that all Board Members were present.

ADOPTION OF MINUTES

August 7, 2013

MOTION: Board Member Holmgren moved to APPROVE the minutes of August 7, 2013 as written. Board Member Bush seconded the motion.

VOTE: The motion passed unanimously.

August 21, 2013

Board Member Bush moved to APPROVE the minutes of August 21, 2013 as written. Board Member Crosby seconded the motion.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD COMMUNICATION & DISCLOSURES

Planning Manager Sintz stated that the HPB would elect a Chair at the next meeting.

REGULAR MEETING - Discussion, Public Hearing and Possible Action.

1. 632 Deer Valley Loop – Determination of Significance
(Application PL-13-02094)

Planner Anya Graham stated that the Historic Sites Inventory is the go-to resource in terms of determining whether or not buildings and structures in Park City are Significant or Landmark.

Planner Grahn reported that a question was raised regarding the significance of 632 Deer Valley Loop. The owners had received a Notice and Order from the Building Department. The property previously owned by the BLM was in litigation for 30 years. As part of the Notice and Order it was brought to their attention that the Historic Sites Inventory form for this particular property may not have been as thorough as it could have been. Planner Grahn clarified that the discussion this evening was strictly to determine whether or not the structure should remain significant on the Historic Sites Inventory.

Planner Grahn stated that the building was previously identified as historic in 1995 on a reconnaissance level survey that the City conducted, but it was not included in a 1982 Historic District architectural survey. The 2009 HSI recognizes that it is a Hall-Parlor plan that has a compatible but non-historic side addition, and it has lost much of its historic integrity due to exterior changes to its materials.

Planner Grahn provided background and history of the site as outlined in the Staff report, and presented slides showing photos of the original structure and how it was changed over time. Planner Grahn reiterated that the focus this evening was on historic significance and not the condition of the building.

Planner Grahn stated that the LMC defines that any building, (main, attached, detached or public), accessory buildings and/or structures can be designated to the Historic Sites Inventory as a Significant Site if it meets the following criteria:

a) The site must be at least 50 years old or has achieved significance in the past 50 years if the site is of exceptional importance to the community.

The Staff believed the structure at 632 Deer Valley Loop complies because the Sanborn maps show that it was built between 1900 and 1910, making it over a 100 years old.

b) The site retains its essential historic form and that major alterations were not made to the actual form of the building.

Planner Grahn explained that changes that could alter the significance include changes to the main roof of the primary façade. She explained why the Staff believed the structure at 632 Deer Valley Loop retains its essential historic form. She indicated the side gable that was built with the Hall-Parlor Plan and the rear addition.

c) Has the site achieved importance in local or regional history, architecture, engineering or cultural association.

Planner Grayn pointed out that as implied by the HSI, the structure at 632 Deer Valley Loop is historically significant to their understanding of the Mature Mining Era. The building is located in what used to be the red light district and it was of the few remaining buildings.

Planner Grahn pointed out the difference between the criteria for Significant and Landmark Designations. To be considered a local landmark the site needs to be at least 50 years old, retain its historic integrity in terms of location, design, setting, materials, and workmanship as defined by the National Park Service for a National Register. It also needs to be significant in local, regional or national history. Planner Grahn explained that the structure at 632 Deer Valley Loop would not comply because the loss of materials makes it ineligible for the National Register of Historic places.

Planner Grahn recommended that the Planning Commission conduct a public hearing and find that the criteria outlined shows that the building meets the criteria as defined by the LMC as Significant; according to the findings of fact and conclusions of law outlined in the Staff report.

Board Member Melville understood that there was not an application to remove the structure from the Historic Sites Inventory. Planner Grahn stated that when the Staff was working with the owners to resolve the Notice and Order, the Planning Director recommended that the Staff should come before the Historic Preservation Board and reiterate that the structure should be left as Significant on the HSI because it meets the criteria. Planner Grahn clarified that if the structure had not met the criteria, she would be making a recommendation to remove it from the HSI.

Board Member Melville noted that the original exterior siding was underneath a couple of layers of siding. She asked if that could be removed to bring it back to Landmark status. Planner Grahn stated that she had asked Cory Jensen with the State Historic Preservation Office the same question, because many of the historic homes have the retained historic materials but it is buried underneath other materials. Mr. Jensen told her that it depends on how much of the historic material was retained and how much could be salvaged. It also depends on how much of the historic material stayed intact during remodeling. Planner Grahn believed that things could be done to possibly return the structure at 632 Deer Valley Loop to Landmark Status and possibly on the National Register.

Board Member Bush asked why the structure was not on the 1985 survey. Planner Grahn was unsure. She stated that the reason could be because it was on BLM land and not within the Old Town core in the area designated as the Historic District. Planner Grahn remarked that a number of sites are outside of the Historic District but remain on the Historic Sites Inventory.

Board Member Bush asked if anyone knew the shape and size of the parcel that the house sits on. Planner Grahn replied that there was not a survey with that information.

Board Member Holmgren noted that the earlier surveys were not very accurate. One survey shows her house as being built in 1957, but it is substantially older. Her other house was not even on the survey. She believed the current surveys are the most accurate.

Madeline Smith, the owner, asked when it was changed from not being in the Historic District to coming into the Historic District. Planner Grahn replied that it was included in the HSI in 2009. Ms. Smith stated that as the owner she was never noticed. Otherwise, she would have dealt with it in 2009. Planner Grahn asked Ms. Smith if she was the owner in 2009. Ms. Smith stated that she has owned the property since 1979. Planner Grahn stated that she could not speak to past notification. She was not with the Planning Department when the Design Guidelines were revised in 2009 and the LMC was amended.

Board Member Holmgren stated that no one was noticed. The survey was done and adopted by the City Council. Board Member White concurred. Patricia Abdullah clarified that every property owner was noticed if their structure was going on the inventory. She recalled that because this was still on BLM land, the notice would have gone to the BLM.

Assistant City Attorney McLean stated that one reason why the Planning Director decided to bring this application to the Board was due to the possibility of a noticing discrepancy. This process allows the owners the opportunity to have the determination of significance evaluated by the HPB.

Board Member Vance asked when Ms. Smith took possession of the property. He was told that it was in 1980. Board Member Vance wanted to know how that coincided with the BLM owning it in 2009.

William Bertagnole, the applicant, provided a brief history. He explained that in 1980 it was purchased from Mary Dudley. During the process, Ms. Dudley's husband passed away and they got a quit claim deed from her. Two years later he received a letter from the BLM and the Mining Company telling them to get off their property. They had unpatented mining claims, which meant nothing, and they continued to try to make Mr. Bertagnole leave. He received another letter from the BLM informing him that he did not own the mineral rights and he needed to leave. Mr. Bertagnole refused to leave and it ended up in a 33 year court battle until the Spring of 2013. Mr. Bertagnole always understood that they were not in the Historic District and the building has been remodeled so much that the

historic elements and materials were gone. Mr. Bertagnole noted that a renter had started a fire in the back of the house and it destroyed the interior.

Chair Pro Tem White pointed out that the original structure is still intact. Mr. Bertagnole agreed that the structure was there but it is not on a foundation and the house is crooked. Chair Pro Tem White remarked that the T111 siding is covering the original historic material and it would have to be inspected to know how much of the original material was retained. Chair Pro Tem White stated that the basic form, shape, size and mass of the house is still there, regardless of what occurred on the interior.

Board Member Bush asked what Mr. Bertagnole intended to do with the structure. Mr. Bertagnole stated that he started the process when he was 30 or 40 years old, and at that time he probably would have rebuilt it. He is now 72 and he would like to sell it. Board Member Bush agreed that the building is badly damaged because it was left unattended for a long time, and it would be difficult to salvage any material. However, the form is still intact. If Mr. Bertagnole wanted to rebuild the form with in-period material, it was something he could support. Board Member Bush did not believe anyone on the HPB expected Mr. Bertagnole to make the old wood beautiful. The HPB was interested in saving or re-creating the form of the historic structure. Mr. Bertagnole replied that at his age he was not interested in building anything.

Board Member Bush asked if Mr. Bertagnole was looking for a clean lot that he could sell. Mr. Bertagnole stated that he has had developers contact him wanting to purchase the property. He pointed out that the fire department, the police department, and the building inspectors have all said that the structure was trash. Three or four years ago the former Building Official, Ron Ivie, begged him to tear it down. However, he could not tear it down because it was his claim to the BLM since it was sitting on BLM ground. Mr. Bertagnole explained that he was very young when he purchased the home and was not aware that it was on BLM ground. His plan at that time was to tear down the house and rebuild. After spending years of time and money working on the house and he had no interest in rebuilding it now. All he wants is the ability to sell it so someone else could rebuild it. He is now faced with the issue of the structure being on the Historic Sites Inventory.

Board Member Bush understood that Mr. Bertagnole wanted to get the value out of the home without redeveloping. He also understood that the developers who approached Mr. Bertagnole were not interested in buying unless they could tear down the house. Mr. Bertagnole replied that he wants to tear down the house because it is unsafe and a danger to the neighborhood. Construction people use the property to store materials and others use it as a dump. There have been drug and transient problems and the City has been after him to do something

about it. Therefore, he applied to demolish the house. His other choice is to cover it up, but plywood can be pried off and the problems return.

Chair Pro Tem White clarified that the issue before the Board this evening was whether or not to keep the Significant Site designation.

Board Member Bush stated that based on that issue, two of the three criteria were very clear. The material is gone but the form and age support keeping the Significant designation. He understood the hazards it poses to the property owner, but he was unsure how that could be addressed based on the criteria.

Chad Root, the Chief Building Official, stated that like Ron Ivie he had issued a Notice and Order early last year when it was still BLM property. Mr. Root clarified that the City has no jurisdiction on federal or state entities. Therefore, when the ownership transferred to Mr. Bertagnole earlier this year, another Notice and Order was sent informing him that the structure needed to either be demolished or repaired. The Building Department later found out that the structure was listed as historically significant and the Notice and Order was changed to repair the structure. Mr. Root stated that the Building Department was looking at a mothballing effort in terms of repairing the damaged areas to protect from weather; and also boarding up the doors and windows from the inside to keep out transients.

Mr. Bertagnole could not recall every being told that he could put plywood on the inside of the windows, and he could not recall ever being told to repair it. All the documents he read from any of the City entities have been to tear it down. Mr. Root clarified that the newest Notice and Order took away the option to tear it down because it is historic.

Planner Grahn stated that per the LMC, the City does not favor demolition of buildings because it ruins the urban fabric and the history is lost. If restoration is not an option due to the dilapidated state of the building, there is always panelizing and reconstruction. She believed that was the only option at this point.

Ms. Smith did not believe it was right that four years ago things suddenly changed and the structure was considered to be in the Historic District. She noted that it was ten years after the fire and it was impossible to repair or restore the house to its historic form.

Board Member Holgrem concurred with Board Member Bush that the structure meets the criteria for a Significant designation.

Board Member Bush pointed out that Mr. Bertagnole was stuck with a liability regarding safety issues. Mr. Bertagnole remarked that he is unable to insure the house and he would be personally liable. Board Member Bush stated that a chain link fence could be installed around the house but people would still find a way in. He stated that typically an owner wants to redevelop and the HPB would ask them to incorporate the form into their design, and to use as much material as possible. However, in this case, the owner only wants to eliminate a liability and has no interest in rehabilitating the house in any way. He asked if removing the liability could be tied to a commitment to rebuild that form with the land. The owner would no longer have the liability and the City could retain the Significant structure.

Planner Grahn stated that through the Historic District Design Review process one option could be for the owner to tear down the structure but provide the financial guarantee and document the historic building. The City would retain the financial guarantee until the structure is reconstructed or meets what was approved with the HDDR. Planner Grahn stated that even though it was an option, the issue before the HPB this evening was determination of significance. She explained that the City was sympathetic to the liability issue and the Planning and Buildings Departments have been trying to find a workable solution for Mr. Bertagnole.

Board Member Melville asked if there was a City program that could assist in securing the building. Mr. Root stated that the Building Department has an abatement program, which is a fund to abate certain structures and to assist; however it is a revolving fund. The City secures the doors and mothballs the building, and if the owner is not able to pay it back to the City, the money is recouped through their taxes.

Chair Pro Tem White opened the public hearing.

Bob Martin a resident across the street at 595 Deer Valley Loop, felt this matter was interconnected with a number of issues. He was unsure of the BLM situation with the City; however, he understood that the structure at 632 Deer Valley Loop sits in the middle of the BLM piece. Mr. Martin stated that those four homes sit across from house and he has been the epicenter of the construction phase of Deer Valley Drive. Mr. Martin was unsure whether the City intended to work a deal with the BLM over this piece of property, but he believed the house is historic. This house and the other three houses that sit on that piece of property are the only things remaining from the red light district of Park City. Mr. Martin preferred that the City do something that piece of property rather than sell it to a developer. His attempts to get answers from the City or the BLM have been unsuccessful. Mr. Martin thought it was legitimate for the HPB to make a decision regarding the significance of the structure, but he also felt it was

important for the City to have a plan. He asked if the property with the other three houses was settled with the BLM. He noted that someone lives in one of those structures. Mr. Martin would like the City to put in a historic park rather than to allow development. His understanding was that the land would be traded and he could be looking at a large condo development on the last piece at the entrance to Deer Valley. Mr. Martin remarked that in terms of historic preservation, it was important to focus on the bigger picture. He has three ribbons on his fence indicating that his home is historic. His home and another home are the only two that still exist inside the Loop. Those two and the four homes on BLM land are the only historic homes in that area.

Sandra Morrison, with the Park City Historical Society and Museum thanked the City for a terrific job creating the Historic Sites Inventory in 2009. They hired an extremely well qualified consultant who spent from 2006-2009 identifying all the historic structures in Park City. She noted that both the Historic Preservation Board and the City Council held public hearings before the HSI was adopted. Ms. Morrison welcomed anyone who wanted to do additional research to use the library at the Park City Museum. Ms. Morrison also commended the City on the decision to hire Cooper Roberts to conduct an intensive level survey, which she believed would answer some of the questions raised this evening regarding the amount of historic fabric remaining on the building. She recognized that some of the questions could not be answered tonight, but the Historical Society Museum fully supported the Planning Department and the listing of this house on the Historic Sites Inventory because it is a historic house. Ms. Morrison was pleased to hear about the mothballing effort and she believed it was a good interim plan. She offered the help of the Historical Society Museum and encouraged the owners to contact her.

Alison Kitching, a resident at 670 Deer Valley Loop Drive, stated that her patio in the Portico Townhome complex was adjacent to the structure at 632 Deer Valley Loop. She is single and lives alone and she was uncomfortable having drug dealers next to her in that home. She has had to call the police twice to report activity outside the house. Ms. Kitching requested that the HPB do something with the structure that would help her feel secure. She thought she was moving into a safe community environment and she still believed that it was a good place to live. However, it would be better if the HPB could help with that issue. Ms. Kitching enjoys being around historic homes and that was one of the reasons why she moved to that area. She preferred that the house not be torn down and the property redeveloped. Ms. Kitching encouraged a solution where the current owners could work with a developer to stay within the same footprint and architecture and redeveloped in a way that fits the area.

Chair Pro Tem closed the public hearing.

Board Member Crosby understood that the cost of mothballing the home would be the responsibility of the owner, and if the owner was incapable of paying for it that it would be added to the taxes and paid when the property is sold. Mr. Root explained that the responsibility goes to the owner. If the owner does not follow through with mothballing and taking care of the property, the City abates it under the Abatement of Dangerous Building code. At that point, the City hires a contractor to mothball the structure and cover the windows and doors. He was told that the burned out portion on this structure was not historic because it was a shed addition to the back of the house. Mr. Root stated that the main purpose is to protect the historic structure. The shed may come down because so much of it is burned out.

Board Member Crosby asked if the burned out shed could be demolished as part of mothballing. Planner Grahm replied that from the Sanborn map it looks like the shed or at least a portion of the shed is historic. However, the Staff would have to research it further to be sure. Board Member Crosby asked if there were cost estimates. Mr. Root replied that the Building Department had not obtained any estimates.

Board Member Holmgren reiterated that the HPB was only being asked to determine whether the structure should remain on the HSI as a Significant structure. Any other issues were not for discussion this evening. Planner Grahm stated that if the Board was interested in the abatement issue, she could bring it back as a work session item to give them a better understanding of the process as it applies to Old Town.

Board Member Melville understood that part of the process for removing a site from the Inventory was that the owner has the burden of proving that it did not meet the criteria and that it should be removed from the list. Assistant City Attorney McLean explained that this particular issue was more of a hybrid. The HPB should evaluate it based on the criteria outlined in the Staff report from the standpoint of whether or not it meets the criteria of Significant. She noted that in 2009 when the structures were listed on the Inventory, all the owners were noticed. If the owner disagreed with the finding, they had the ability to have the HPB look more specifically at their structure to determine whether or not it was significant. Because of the issues with the land and the possibility that only the BLM was noticed and not the homeowner, the Staff felt it was appropriate for the HPB to relook at the determination.

Board Member Melville clarified that the issue was unique to this property because of the BLM and owner dispute. She wanted to make sure the HPB would not be setting a precedent that all properties on the Historic Sites Inventory would have to be reconfirmed. City Attorney McLean replied that this was a unique situation because of the ownership issue.

Board Member Melville believed the criteria were clear for this structure to remain a Significant site. The house is 50 years old. In comparing the 1938 photo with the current photo, it has retained its essential historical form. It also meets the criteria of local history due to its importance to the mining era.

Board Member Holmgren felt strongly that the structure was significant.

MOTION: Board Member Holgrem moved to keep the property at 633 Deer Valley Loop listed on the Historic Sites Inventory as a Significant Historic Site, in accordance with the Findings of Fact and Conclusions of Law outlined in the Staff report. Board Member Crosby seconded the motion.

VOTE: The motion passed. Board Member Kenworthy was not present for the vote.

Findings of Fact – 632 Deer Valley Loop

1. 632 Deer Valley Loop is within the Residential-Medium Density (RM) zoning district.
2. There is an existing side gable hall-parlor structure at 632 Deer Valley Loop. This structure is currently listed on the Park City Historic Sites Inventory as a “Significant” Structure.
3. The existing structure has been in existence at 632 Deer Valley Loop since circa 1900. The structure appears in the 1904 and 1927 Sanborn Fire Insurance maps. Furthermore, the Historic Site Form contains tax cards of the structure from 1949, 1958, and 1969. A late-1930s tax card photo also demonstrates that the overall form of the structure has not been altered.
4. The hall-and-parlor structure and later rear addition were both constructed within the Mature Mining Era (1894-1930) and are historic.
5. Though out of period, the enclosed side porch entrance added in the 1960s does not detract from the historic significance of the structure.
6. The existing structure is in serious disrepair and is not habitable in its current dangerous condition.
7. There is very little original exterior materials remaining on the exterior of the home. The original wood lap siding has been covered by layers of Bricktex and vertical wood siding.

8. The double-hung windows on the façade were removed and expanded to install larger, undivided rectangular windows after 1969. The original wood double hung windows throughout were replaced by aluminum windows.
9. After 1969, the turned wood porch posts were replaced with new decorative metal columns. A brick chimney was installed above the enclosed side porch that was later repaired with thick layers of Portland Cement.
10. The structure is a hall-parlor plan and typical of the Mature Mining Era.
11. The rear addition of the structure, dating prior to 1927, was severely damaged in a fire on May 17, 1999.
12. The site meets the criteria as Significant on the City's Historic Sites Inventory.
13. Built circa 1900, the structure is over fifty (50) years old and has achieved Significance in the past fifty (50) years.
14. Though the structure has lost its historic integrity due to the out-of-period alterations to its historic materials, it has retained its historical form. The out-of-period addition to the west elevation of the structure does not detract from its historic significance.
15. The structure is important in local or regional history because it is associated with an era of historic importance to the community, the Mature Mining Era (1894-190).

Conclusions of Law – 632 Deer Valley Loop

1. The existing structure located at 632 Deer Valley Loop meets all of the criteria for a Significant Site as set forth in LMC Section 15-11-10(A)(2) which includes:
 - (a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and
 - (b) It retains its Essential Historical Form, meaning there are no major alterations that have destroyed the Essential Historical Form. Major alterations that destroy the Essential Historical Form include:
 - (i) Changes in pitch of the main roof of the primary façade if 1) the change was made after the Period of Historic Significance; 2) the change is not due to any structural failure; or 3) the change is not due to collapse as a result of inadequate maintenance on the part of the Applicant or a previous Owner, or
 - (ii) Addition of upper stories or the removal of original upper stories occurred after the Period of Historic Significance, or
 - (iii) Moving it from its original location to a Dissimilar Location, or

- (iv) Addition(s) that significantly obscures the Essential Historical Form when viewed from the primary public Right-of-Way.
- (c) It is important in local or regional history, architecture, engineering, or culture associated with at least one (1) of the following:
 - (i) An era of Historic importance to the community, or
 - (ii) Lives of Persons who were of Historic importance to the community, or Historic Preservation Board.
 - (iii) Noteworthy methods of construction, materials, or craftsmanship used during the Historic period.

Board Member Kenworthy arrived.

2. 820 Park Avenue, Rio Grande – Appeal of Staff’s Determination
(Application PL-13-02108)

Planner Grahn requested that the HPB review this appeal de Novo. They were looking at it anew to find whether or not unique conditions exist to move the building. Planner Grahn emphasized that the discussion should not focus on the design or what could be built on the site.

Planner Grahn reported that Planning Director Thomas Eddington and Chief Building Official Chad Root had written a determination letter stating that unique conditions did not exist for this site. She had provided the Board with a copy of Director Eddington’s testimony, since he was out of town. Mr. Root was present to testify for himself.

Chair Pro Tem White asked if any Board member had disclosures related to this appeal.

Board Member Bush disclosed that he has worked with the appellant, Rory Murphy, on projects in the past. He did not believe that association would interfere with his judgment on this appeal. He and Mr. Murphy have no current business dealings.

Assistant City Attorney McLean stated that if any of the Board members had anyone speak to them outside of this meeting concerning the appeal, that should also be disclosed, as well as the content of the conversation, since this was a quasi-judicial hearing.

Jeff Love disagreed with Board Member Bush’s assessment of his relationship with Rory Murphy. Assistant City Attorney McLean clarified that Board Member Bush is entitled under the State Code to make a disclosure how he wishes.