

**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL
MARCH 18, 2014**



AGENDA

MEETING CALLED TO ORDER - 5:00 PM

ROLL CALL

ADOPTION OF MINUTES OF NOVEMBER 19, 2013

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

STAFF AND BOARD COMMUNICATIONS/DISCLOSURES

CONTINUATION

632 Deer Valley Drive – Appeal of Historic Preservation Board determination PL-13-02160
that the “Significant” structure should remain designated as “Significant” on the
City’s Historic Sites Inventory (HSI).

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

488 Marsac – Variance application – Request for Variance to the required ten PL-13-02176 Pg.11
foot minimum horizontal step in the downhill façade for the third story of a
structure, unless the First Story is located completely under the finish Grade
on all sides of the Structure.
Quasi-Judicial hearing

206 Grant Avenue – Variance application – Request for Variance to omit PL-13-02264 Pg.83
second parking space requirement for new construction of a single-family
home on a vacant lot in the HR-2 Zone.
Quasi-Judicial hearing

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.

MINUTES OF PARK CITY BOARD OF ADJUSTMENT
CITY HALL, COUNCIL CHAMBERS
NOVEMBER 19, 2013

IN ATTENDANCE: Ruth Gezelius, Hans Fuegi, Mary Wintzer, Richard Miller, Jennifer Franklin

EX OFFICIO: Kirsten Whetstone, Senior Planner; Polly Samuels-Mclean, City Attorney; Patricia Abdullah, Planning Analyst

I. ROLL CALL

Chair Gezelius called the meeting to order at 5:02 PM and noted that all Board members were present with the exception of Board member Ludlow. Alternate Franklin would serve as a voting member for the meeting.

II. ADOPTION OF MINUTES OF OCTOBER 15, 2013

There was discussion regarding an error in the measurements of the garage from the variance request heard that night for 312/314 Norfolk Avenue. The Board directed Staff to double check the recording to make sure that all of the Findings of Facts, Conclusions of Law, and Conditions of Approval correctly identified the approval.

MOTION: Board member Miller moved to approve the minutes as corrected and revised for Findings of Fact #4 and Order #1. Alternate Franklin seconded the motion.

VOTE: 4-0. Board member Fuegi abstained from the vote as he was not present at the meeting. Motion carried.

III. PUBLIC COMMUNICATIONS

There was no comment.

IV. STAFF AND BOARD COMMUNICATIONS

Planning Analyst Abdullah advised the Board that Board member Ludlow had submitted his resignation from the Board of Adjustment. Staff would be advertising for the position and would continue to keep the Board up to date. Additionally, she confirmed that the next Board of Adjustment meeting was confirmed to be held on Tuesday, December 17 at 5:00 PM.

V. REGULAR AGENDA

312/314 Norfolk Avenue – Variance Request
PL-13-02139

The request before the Board was for a Variance at a duplex located at 312/314 Norfolk Avenue. The Board had previously reviewed variances at this property at twice before. This new application is for variances that resulted from the review at the October 15, 2013 Board meeting. The applicant is requesting four variances for; the shared property line side yard setback to be reduced to 0', the side yard setback to be reduced from 5' to 1' on the outside property lines, a variance to allow a covered staircase within the ten foot front yard setback, and a variance to the maximum footprint to a total of 1,519 square feet. The Building department confirmed with Planning that the applicant would be required to do a Plat Amendment in order to remove the internal lot line before a building permit could be issued for construction crossing a property line. Staff recommended that the Board review the five criteria as outlined in the Land Management Code and grant the variance requests as based on the Findings of Facts, Conclusions of Law, Conditions of Approval, and Order as outlined in the staff report.

Carol O'Donoghue, the owner of the property, addressed the Board. She stated that a structural engineer had surveyed the existing carport and recommended that it be rebuilt as the current condition was hazardous. The current staircase was a safety risk due because it was open to the elements and she'd had many slips, falls, and minor injuries sustained over the years. She apologized to the Board for the mistakes in the previous variance requests and hoped to have everything finalized through this application. David White, the architect on the project, was there to answer any technical questions the Board may have.

Chair Gezelius opened the floor to public comment.

Joel Preston, a resident at 314 Norfolk Avenue spoke in favor of granting the variances. He reviewed the five criteria and found that the proposal met all of them. He stressed that safety is the key and that the current parking structure is not safe to park on and that the stairs are a hazard to use on a daily basis. He stated that the property had a special circumstance by its location to the Norfolk ski access. Having a garage would alleviate some of parking problems associated with that. He stressed that the applicant wants to be consistent with the Old Town design and that the proposed garages will meet the design guidelines. He found that the garages would meet the spirit of the code as garages are allowed in the zone. He added that this proposal would allow for better emergency vehicle circulation at the end of the street.

Ruth Meintsma, a resident at 305 Woodside Avenue, praised the Board and felt this variance process was a success.

City Attorney Mclean clarified confusion regarding the non-complying status of the structure by stating that the Variance would not expand any non-compliance but it would allow the applicant an exception to that portion of the Code.

Discussion ensued that resulted in Board member Miller recommending a change to the beginning of Condition of Approval #6 to read "Recordation of a condominium record of survey

plat or plat amendment removing the interior lot line is required prior to issuance of a building permit for the covered staircase.” It was agreed that the variance request for the side yard setback for the internal lot line should be removed from consideration as the plat amendment would solve the need for that variance.

Ms. Meintsma cautioned that granting this variance might set precedence and recommended that the Board make Findings that the stairs and their location between the carports be the unique condition on the property that warrants the variances. She thought the unique conditions outlined on page 10 of the packet were not unique enough to that particular property and could be used to justify the need on many other old town lots. Board member Wintzer agreed that the stairs in particular are a safety issue and that other duplexes do not have similar issues. Ms. Meintsma found the stairs to be unique for three reasons; they were common area for the duplex, go between the parking pads, and were below grade. Both Board member Miller and Chair Gezeliuss found that the stairs were adequately addressed in the Findings of Fact. Chair Gezeliuss added that the Board reviews each application and property uniquely. Overall Ms. Meintsma thought the proposal would be a positive addition to the neighborhood.

Chair Gezeliuss closed the public hearing.

Board member Miller wondered why staff was recommending a 1’ side yard setback be granted when the plans show that the parking pads will be 2’ from the property lines. Staff responded that the additional foot was for the railings on the parking pad. Board member Miller requested that the second variance request for side yard setbacks from property lines be changed to 2’ and that railings be able to encroach an additional foot.

Board member Fuegi commended his Board members for their efforts on the previous variance requests. He wondered how the applicant would deal with the parking pads as proposed in regards to ski access. Mr. Preston responded that the garages would fix most of the issues but that it wouldn’t be completely solved.

Board member Wintzer thanked the applicants for the hard work they had put into the project and agreed that the proposal is much better than originally shown. She felt that the current proposal would allow for the vista and view at the end of the closed street to remain open. She continued to believe that the City needed to do better policing of the trailhead and that much of the burden on the applicants was due to bad enforcement.

The Board agreed at the insistence of Ms. Meintsma to add additional language to Finding of Fact #14 to include “the below grade common stairs”.

Though Alternate Franklin agreed with her fellow Board members she was concerned that the Board may be granted variances on the idea of a combined lot and cautioned that the Board be very thorough on any Conditions of Approval. It was agreed through discussion that in the variance request should stay listed in Order #1 as it was requested but that any motion should

state that Order #1 is not needed as Condition of Approval #6 makes it unnecessary. Chair Gezelius concurred with her fellow Board members and found that this property qualifies under all five criteria. The proposed garages would improve the health and safety of the current situation and she recommended approval.

MOTION: Board member Miller moved that the Board of Adjustment grant the Variances requested for the side yard setback reduction from 5' to 2', to allow a covered staircase within the front yard setback, and that the maximum footprint be increased to 1,519 in accordance with the Findings of Facts, Conclusions of Law, Conditions of Approval, and Orders. Additionally he moved to deny the variance for the side yard shared property line to zero as Condition of Approval #6 would make the variance unnecessary.

Alternate Franklin asked that the mention of public parking on the parking pads be removed from the Findings of Fact as it was irrelevant to the granting of the variances. Board member Wintzer and Miller concurred.

Board member Fuegi seconded the motion.

VOTE: 5-0. The motion passed unanimously.

Findings of Fact

1. The properties are located at 312 and 314 Upper Norfolk Avenue.
2. The properties are located within the Historic Residential (HR-1) District.
3. The existing duplex structure is not an historic structure as it was constructed in 1981.
4. In addition to the variances granted on October 15, 2013, the applicant is requesting the following four variances:
 - A variance to LMC Section 15-2.2-3 (H) to the required five foot (5') side yard setbacks to allow a zero foot (0') setback to the common shared property line (for garages and stairs)
 - A variance to LMC Section 15-2.2-3 (H) to the required five foot (5') side yard setbacks to allow a one foot (1') setback to the outside property lines (for parking pad and railings).
 - A variance to LMC Section 15-2.2-3 (E) to allow a covered staircase in the ten foot (10') front setback (starting at 3' from the property line and continuing to the 10' setback line), in addition to the variance granted by the Board on October 15, 2013 to allow the detached garages and parking pads in the front setback as shown on the plans.
 - A variance to LMC Sections 15-2.2-3 (D) the maximum building footprint of 1,519 sf to allow an additional 21 square feet of building footprint area for each garage (total additional footprint of 42 sf) from the 462 sf (231 sf per garage) granted by the Board on October 15th. The difference is based on using the correct interior single car dimension required by the LMC (11' by 20') that results in a correct building footprint of 12' by 21' (252 sf). If approved, this variance combined with

the October 15th variance, will allow 504 square feet of additional building footprint for the two garages (252 sf per garage).

5. The property consists of two “old town” lots. Each lot is a 25’ by 75’ lot containing 1,875 square feet, which is the minimum lot size allowed in the district. The two lots combined contain 3,750 square feet of lot area, which is the minimum lot size allowed for duplexes in the district.
6. The site is currently occupied by a duplex that contains two (2) separate dwelling units adjoined by a zero setback common “party-wall.” This is an existing condition that was permitted at the time of construction and the structure is a legal non-complying structure. The variances would not expand any non-compliance but would allow the applicant an exception to that portion of the Code. Each unit has a footprint area of 800 sf for a total existing building footprint area of 1,600 sf. The maximum building footprint for a combined 50’ by 75’ lot is 1,519 sf. The maximum building footprint for a single lot is 844 sf.
7. There are two existing dilapidated parking pad structures built within the front yard setback to provide required parking spaces for the duplexes.
8. The current application is a request for side yard and building footprint variances, as described in #4 above, and is based on a combined 50’ by 75’ lot.
9. The variances continue to be requested for the purpose of constructing a single car garage for each unit with a covered stairway between the two detached single car garages and reconstruction of the uncovered parking pads, one for each unit for a total of 4 parking spaces for the 2 units (2 in the garages and 2 on the pads). The side yard variances are requested to accommodate two 9’ wide parking pads, two 12’ wide (exterior dimension) garages, and a 4’ wide shared staircase within a 50’ wide combined lot.
10. The unreasonable hardship is that the owner’s properties are at the end of a long, narrow street and snow removal by the City during the winter months causes their driveways and walkway to be covered in snow due to the fact that there is no “cul-de-sac” in which to turn, or for the plow to store the snow, and the required parking areas are uncovered and on the downhill side of the street. The turn-around is an emergency turn-around that is required to be cleared to the full required width for emergency vehicles.
11. The enclosed garages will help ensure that at least one vehicle for each dwelling unit can be parked off the street. The other parking space for each dwelling unit would be on the remaining area of the parking pads, as uncovered spaces.
12. Due to the fact that there is little to no on-street parking nearby these properties, parking within the garages will be utilized for the associated dwelling units. Parking during the winter months on Upper Norfolk is difficult due to snow accumulation at the street’s end, public parking by trail users, and resident guest parking. The open parking pads are perceived parking for the trailhead.
13. Granting of the variance allows the applicant the same rights as other property owners in the district. Most properties have enclosed parking in garages that discourage public from parking within/or behind them. This is not the case with the subject property parking

pads, which are often utilized by trail users, resident guests, and other users as mistaken “on-street” parking.

14. Without the variance, the applicants will not be able to build the garages and cover the below grade common stairs, and would continue to have problems with snow removal, public parking on the parking pads, and the treacherous narrow, steep, icy below grade common staircase to the front entrances of the units.
15. Granting of the variances would allow the applicant to build two (2) detached single car garages with a common covered stairway between them, providing safer access and egress from the homes during the winter months and providing a front entry at the street.
16. The stairs are covered with a door at the street but no door at the bottom. The stairs are covered, but not enclosed. Covered stairs do not require utilization of building footprint because the space is open at the bottom and the area is not living area or finished, conditioned space, similar to a covered porch.
17. 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 garage.
18. The survey indicates wooden steps on the north side of the property encroach onto the City Open Space property to the north. There is also a diminimus encroachment (less than 5”) onto the Treasure Hill Subdivision Open Space located east of the City Open Space.
19. The proposed garages are separate detached structures and not attached to the main duplex structure. The proposed garages are 10’6” in height from the finished floor elevation to the front gable and 11’6” in height from the finished floor elevation to the highest roof ridge according to the elevations submitted with the variance application.
20. The spirit of the LMC is observed and substantial justice done.

Conclusion 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.

Order

1. A variance to LMC Section 15-2.2-3 (H), to the required five foot (5') side yard setbacks to allow a zero foot (0') setback to the common shared property line (for garages and stairs), is hereby denied, as Condition of Approval #6 makes it unnecessary.
2. A variance to LMC Section 15-2.2-3 (H), to the required five foot (5') side yard setbacks to allow a two foot (2') setback to the outside property lines for parking pads (railings are allowed to encroach an additional one foot (1')), is hereby granted.
3. A variance to LMC Section 15-2.2-3 (E) to allow a covered staircase in the ten foot (10') front setback (starting at 3' from the property line and continuing to the 10' setback line), in addition to the variance granted by the Board on October 15, 2013 to allow the detached garages and parking pads in the front setback as shown on the plans, is hereby granted.
4. A variance to LMC Section 15-2.2-3 (D), to the maximum building footprint of 1,519 sf to allow an additional 21 square feet of building footprint area for each garage (total additional footprint of 42 sf from the 462 sf (231 sf per garage) granted by the Board on October 15th, is hereby granted. This variance combined with the October 15th variance, will allow a total of 504 square feet of additional building footprint for the two garages (252 sf per garage).
5. The variances run with the land.

Conditions of Approval

1. The variances are granted for the two parking pads, two single car garages, and the covered shared stairway, as indicated on the plans submitted with this application.
2. No portion of the garages shall be used for additional living space.
3. The garage interior shall be used for parking. Limited storage is permitted to the extent that it does not preclude parking of a vehicle. Attic area may be used for storage. Trash and recycling bins may be stored in the garages.
4. The garages shall not exceed 11'6" from the finished floor elevation to the top of the roof.
5. The area underneath the garages shall not be enclosed for use as habitable living space.
6. Recordation of a condominium record of survey plat or plat amendment removing the interior lot line is required prior to issuance of a building permit for the covered staircase. Uncovered stairs may be reconstructed without the condominium record of survey plat, subject to recordation of access and construction easements as required by the Chief Building Official.
7. Any encroachments from this property onto the adjacent Open Space shall be removed prior to issuance of any building permits, unless an encroachment agreement is executed and recorded between the property owner (applicant) and the City. No encroachment agreement is required for the diminimus encroachment.

8. The above conditions of approval will be recorded as notes on the future condominium record of survey plat prior to recordation.

Chair Gezelius adjourned the Board of Adjustment meeting of November 19, 2013 at 6:12 PM.

Minutes prepared by:

Patricia Abdullah, Planning Analyst

Board of Adjustment Staff Report



Application #: PL-13-02176
Subject: 488 Marsac Avenue
Author: Anya Grahn, Historic Preservation Planner
Date: March 18, 2014
Type of Item: Variance

Summary Recommendations

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

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

Description

Applicant: Alexis Gevorgian, Owner
Location: 488 Marsac Avenue (Lot 16, Block 55 Park City Survey)
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Historic and non-historic residential, Marsac Building, platted un-built Fifth Street ROW
Reason for Review: Variances require Board of Adjustment Approval

Proposal

The applicant is requesting a variance to the required ten foot (10') minimum horizontal step in the downhill façade for the third (3rd) story of a structure, given that the First Story is not completely under the finished Grade on all sides of the Structure. Due to the hardships imposed on the site by State Highway 224's encroachment across the front of the lot, there are unique circumstances on this site that limit the size of development and prohibit design consistent with surrounding historic sites and new residential infill projects. See Exhibits A, B, and C for an existing conditions survey, a preliminary site plan, and photographs of the site.

Purpose

The purpose of the Historic Residential HR-1 District is to:

- (A) preserve present land Uses and character of the Historic residential Areas of Park City,
- (B) encourage the preservation of Historic Structures,

- (C) encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- (D) encourage single family Development on combinations of 25' x 75' Historic Lots,
- (E) define Development parameters that are consistent with the General Plan policies for the Historic core, and
- (F) establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Additional Applications

The applicant submitted a pre-HDDR (pre-Historic District Design Review) for a preliminary house design review by the Historic Design Review Team concurrent with a previous variance application (approved August 27, 2013). Staff provided input regarding the design and encouraged a design that relates to and is compatible with the historic structure located to the north of the platted, un-built ROW as well as a design that continues the general rhythm and scale of houses along Marsac Avenue. Staff has worked diligently with the Applicant and has reviewed nine (9) updated preliminary designs for this site. A Historic District Design Review (HDDR) was submitted for this site on October 1, 2013, and deemed complete on October 24, 2013.

A Steep Slope Conditional Use Permit (CUP) is not required for this lot because the grade is relatively level and does not have a 30% or greater slope.

The applicant applied for a Conditional Use Permit (CUP) for a driveway in the platted, un-built right-of-way (Fifth Street ROW), as permitted by LMC Section 15-3-5. The purpose of the driveway was to allow a side accessed garage as encouraged by the Historic Design Guidelines and to address safety issues related to backing onto the State Highway. Due to concerns raised by the Planning Commission, the applicant chose to withdraw this application and pursue other design options.

On August 27, 2013, the Board of Adjustment reviewed the application for a variance to the north side setback and to the parking for a vacant lot at 488 Marsac Avenue. The applicant requested a variance to reduce the north side setback from five feet (5') to one foot (1'). The BOA approved the variance to allow an average of a two foot (2') setback, with a minimum of a one foot (1') setback. The applicant also requested a variance to the requirement to orient tandem parking in parallel and requested to orient the tandem space parallel to the road. This was not approved; however, the BOA did reduce the required parking for the site from two (2) spaces to one (1) space due to site constraints.

Background

In reviewing the Historic District Design Review (HDDR) application, staff found that the proposed design did not include a ten foot (10') minimum horizontal step in the downhill façade for the third (3rd) story of a structure. Though the lot is relatively flat, staff determined that the downhill façade of the structure was the west (front) elevation as

the grade of the hill overall slopes northwest away from Ontario Avenue and towards the Deer Valley Loop roundabout. In working with the applicant, staff determined that a ten foot (10') step would create an unreasonable hardship.

On December 9, 2013, the City received an application for the requested variance for the property located at 488 Marsac Avenue. The application was deemed complete on February 26, 2014. The HDDR application has been on hold to allow the applicant to proceed with the variance application request to waive the required ten foot (10') minimum horizontal step in the downhill façade for the third (3rd) story of the structure, as well as to work with Planning Staff on the house design for compliance with the Design Guidelines.

The previous owner of 488 Marsac also owned 484 Marsac and submitted a variance application on February 13, 2004, requesting a height variance to allow both houses (484 and 488 Marsac Avenue) to be constructed to a height of 33 ½ feet instead of 27 feet as required by the LMC. The Board of Adjustment reviewed the height variance request on May 18, 2004. After discussion, the Board continued the matter with direction to the applicant to work with the Staff to revise the plans to meet the height requirements and to work with Staff on roof configurations (e.g. flat, shed, or less steeply pitched) that would comply with the Design Guidelines. Later in 2004, the height variance application was withdrawn and a house was constructed at 484 Marsac in compliance with the Land Management Code and the "old" (1983) Historic District Design Guidelines. No setback variances were requested for the house at 484 Marsac which did not have the same degree of highway encroachment as 488 Marsac. Setback variances for 488 Marsac were not previously requested in the 2004 application for 484 Marsac. Additionally, the LMC requirement for a ten foot (10') horizontal step on the third (3rd) floor was not required in 2004 as it was adopted in 2009.

The subject property, Lot 16 (488 Marsac), was sold to the current owner and remains a vacant lot.

On March 27, 2013, July 16, 2013, and August 27, 2013, the Board of Adjustment reviewed the applicant's request for variances to the front, rear and side setbacks as well as to the requirement to provide two (2) parking spaces. The BOA reviewed the variances for a final time on August 27, 2013 and approved a variance allowing an average of a two (2') foot setback on the north yard, adjacent to the Fifth Street ROW, with a minimum of a one (1') foot setback. The BOA also reduced the required parking for the site from two (2) spaces to one (1) space due to site constraints.

At that time, staff had noted that the maximum footprint the applicant could achieve with the reduced setbacks would be 650 square feet (Exhibit I); however, staff now finds that the applicant can achieve a footprint of approximately 706 square feet. As a reminder, the applicant is permitted a footprint of 844 square feet based on the size of his lot. At the time of the 2013 variance, staff had predicted that the applicant would create a rectangular footprint, rather than angle the façade of the house towards Marsac

Avenue. By aligning the front of the house to the street and creating a triangular edge to the footprint, the applicant was able to gain additional square footage. Any accessory structures would be required to meet the required setbacks and would be included in the footprint calculation.

Analysis

The property is located in the HR-1 zoning district and is subject to LMC Section 15-2.2-5 Building Height, prior to the changes made in November 2013 regarding the required ten foot (10') horizontal step to occur at a maximum height of twenty-three feet (23'). In order to resolve the hardships related to the site constraints of this lot, the applicant is now requesting a variance to the ten foot (10') minimum horizontal step in the downhill façade that is required for a third (3rd) story of a structure unless the first story is completely under the finish grade on all sides of the structure.

The applicant is requesting this variance to address issues related to a hardship created by the encroachment of State Road 224/Marsac Avenue onto the front portion of the Lot. The BOA previously granted the applicant two (2) variances allowing an average of a two (2') foot setback, with a minimum of a one (1') foot setback along the north (side) elevation and reducing the required parking for the site from two (2) spaces to one (1) space due to site constraints.

The applicant proposes to construct a new single family house on a vacant lot located at 488 Marsac Avenue. State Highway 224, also known as Marsac Avenue, encroaches at an angle across the front portion of the platted Old Town lot by sixteen (16') to twenty-two (22') feet. This encroachment, plus the additional area required to accommodate a ten foot (10') front setback (measured from the back of curb), equates to 812.5 sf of the total 1,875 sf lot (43% of the lot area). In an unencumbered lot of the same dimensions, the lot 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). The area of encroachment by the State Road 224 has not been dedicated to the State Department of Highways as public ROW. The entire Lot 16 is owned by the applicant and the highway is considered to be in a prescriptive easement across the lot.

Lot 16 has standard dimensions of 25' by 75' and contains 1,875 sf of lot area. The same LMC requirements and standards apply to this lot as apply to all lots of this size in the same district, including those not encumbered by a highway. The maximum building footprint allowed for a 1,875 sf lot is 844 sf. With the approved variances, the applicant is permitted a building footprint of approximately 706 square feet, which is approximately 84% of the maximum allowed footprint (844 sf) on a similar sized lot. (The previous staff report had calculated the total footprint to be only 650 square feet based on the reduced setbacks of the variance. The actual amount is 706 square feet.)

The applicant is not proposing a variance to the 27 foot height restriction. The allowable building footprint based on the size of the entire platted lot (1,875 sf) is 844 sf. With the two (2) previously granted variances, the building footprint will be approximately 706 sf.

Due to the encroachment of Hwy 224, the loss of an additional ten feet (10') along the front of the house for the horizontal step on the third (3rd) level would create additional hardship on the property owner and result in a loss of approximately 220 square feet of the third floor or thirty-four percent (34%) of the total area of the third (3rd) level, 647 square feet. The ten foot (10') horizontal step would also reduce the overall square footage of the entire house by approximately thirteen percent (13%). On a typical twenty-five foot (25') by seventy-five foot (75') lot, the ten foot step would reduce the third (3rd) floor of a house by approximately 190 square feet (29%) and the overall square footage of the entire house by eight percent (8%). Granting this variance is essential not only to the enjoyment of the substantial property right possessed by other property in the same zone, but will greatly impact the overall compatibility of the design to other neighboring properties.

As previously noted, staff has reviewed nine (9) updated preliminary designs for this site. At this time, the applicant is proposing to construct a three (3) story townhouse of approximately 1,662 square feet. Staff finds the design is much more in keeping with the historic district and the neighborhood. Prior to the 2009 Design Guidelines, five (5) townhouses were built on the east side of Marsac Avenue. These houses create a rhythm and pattern for the street, and the proposed design for 488 Marsac is in keeping with this pattern. As shown in Exhibit F, the structure will have a front gable, facing Marsac, with a garage entrance on the lower level similar to that of neighboring houses. Immediately to the south of the 488 Marsac property, the first five (5) townhouses do not have the ten foot (10') minimum step back on the third (3rd) story.

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

Criteria to Grant Variances

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

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. *In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship the BOA may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood. In determining whether or not the enforcement of the LMC would*

cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.

The encroachment of HWY 224 on the property has created a special circumstance attached to this property that is not generally applied to other properties in the same zone. As previously noted, State Highway 224, also known as Marsac Avenue, encroaches at an angle across the front portion of the platted Old Town lot by sixteen (16') to twenty-two (22') feet. Typically, the required ten foot (10') front yard setback equates to 250 square feet of the total 1,875 square foot lot, or about 13.3% of the lot area. When considering the encroachment of the state highway and the required ten foot (10') front yard setback (measured from the back of curb), the total front yard setback for this property is approximately 812.5 square feet of the total 1,875 sf lot, or about 43% of the lot area. The area of encroachment by the State Road 224 has not been dedicated to the State Department of Highways as public ROW. The entire Lot 16 is owned by the applicant and the highway is considered to be in a prescriptive easement across the lot.

Staff finds that requiring the ten foot (10') horizontal step on the third (3rd) floor based on the literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code. The ten foot (10') step was introduced in order to limit the mass and bulk of structures on hillsides and prevent a wall effect along the streetscape. The lot at 488 Marsac Avenue is relatively flat; however, as previously noted, staff determined that the downhill façade of the structure was the west (front) elevation as the grade of the hill overall slopes northwest away from Ontario Avenue and towards the Deer Valley Loop roundabout. Because this lot is relatively flat, new development is not required to step up the hillside. Because of this, the façade does not create a wall effect along the streetscape. Rather, the ten foot (10') horizontal step would alter the pattern and rhythm of the existing streetscape which consists of narrow townhomes that were constructed without a ten foot (10') horizontal step.

Further, the step would significantly impact the property owners' essential enjoyment of a substantial property right by reducing the size of an already small house by thirteen percent (13%). As previously noted, the ten foot (10') horizontal step on the third level will reduce the overall square footage of this level by over one-third (1/3) or 220 sf. 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 2,077 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.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. *In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.*

As previously described, there are special circumstances attached to the Property due to the encroachment of State Highway 224 across the front of the lot that do not apply to other Properties in the same zone. The location, alignment, and the total volume of traffic on the highway in this location, create special circumstances that generally do not apply to other property in the same zone and deprive the Property of privileges granted other Properties in the same zone. These special circumstances have severely limited the size of the development permitted on this lot. With the previously granted variances, the total footprint of the structure is limited to 706 square feet which is approximately 84% of the maximum allowed footprint (844 sf) on a similar sized, standard Old Town Lot (25 ft. x 75 ft.).

Granting a variance to the required ten foot (10') minimum horizontal step back lessens impacts of the hardship by allowing additional building area to make up for area taken up by the highway and allows the property owner privileges granted to other Properties in the same zone.

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

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

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

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

The goals of the General Plan include maintaining the character, context, and scale of local historic districts with compatible infill development and additions.

As proposed, this design reflects the traditional front gable façade that is so evident in cityscapes of Park City. The overall style and character of the design relates to the neighboring “Significant” historic structure at 508 Marsac Avenue, while not detracting from it.

Further, the design without the ten foot (10') step on the third (3rd) level of the façade does not violate the overall rhythm and pattern of the streetscape. The proposed design is consistent to the predominant pattern of the neighborhood, with special consideration given to historic sites, in terms of scale and height, exterior elements such as roofs, windows, and door. Five (5) new townhouses on single lots were constructed prior to the ten foot (10') horizontal step requirement just to the south of this site. The facades of these houses create a pattern and rhythm on the east side of Marsac Avenue. As proposed, the design for 488 Marsac Avenue relates to the overall height, scale, and design of neighboring infill developments.

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

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

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

The step will not only diminish the allowable square footage of the already small house. Stepping development on slopes is necessary in order to reduce the bulk and mass of the structure; however, as proposed, the massing of the already small structure has been broken up by projecting box bays, covered entrances, and varying wall and roof planes. 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.

Process

If the variance requests are approved, the applicant can continue to move forward with his full Historic District Design Review utilizing the setbacks, parking, and ten foot (10') horizontal third (3rd) floor step variances granted by the Board of Adjustment. Staff review of Building Permits is not publicly noticed unless appealed. The approval of this

variance request by the Board of Adjustments constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13.

Department Review

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

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The property owner would be required to provide a ten foot (10') horizontal step on the third (3rd) level. This step would result in a loss of approximately thirty-four percent (34%) of the third (3rd) level as well as a reduction in the overall square footage of the house by thirteen percent (13%). The step will take away one bedroom of the home, limiting the house to a two (2) bedroom home.

Recommendation

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

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

Findings of Fact (for Staff recommendation)

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.

Conclusions of Law (Staff recommendation)

1. Literal enforcement of the HR-1 District requirements for this property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have been met.
7. Granting the variance would allow a design for a future house that is consistent with the purposes of the Design Guidelines for Historic Districts and Historic Sites.

Order (Staff's recommendation)

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

Conditions of Approval

1. A reciprocal snow shed agreement shall be recorded between the City and the applicant allowing for potential snow shedding onto platted, un-built Fifth Street ROW and allowing City snow storage within the front setback areas of the Lot.
2. Compliance with the Design Guidelines for Historic Districts and Historic Sites is a condition precedent to issuance of any building permits on the property.

3. The Historic District Design Review process may require adjustments to the structure that further limit the size of the structure.

Exhibits

Exhibit A– Applicant's narrative
Exhibit B– Aerial Photograph
Exhibit C– Existing conditions survey
Exhibit D – Preliminary site plan
Exhibit E– HDDR plans
Exhibit F – Neighboring Uses
Exhibit G – August 27, 2013 Staff Report
Exhibit H – August 27, 2013 Minutes
Exhibit I – Final Action Letter

Alexis Gevorgian
16633 Ventura Blvd, Suite 1014
Encino, CA 91436
(818) 317-4168

December 7, 2013

Kirsten Whetstone
Senior Planner
Park City Municipal Corporation
445 Marsac Avenue
Park City Utah 94060

Re: 488 Marsac Street Variance Request

Dear Ms. Whetstone,

I hereby respectfully request that the Park City grant those certain variances that I have requested per the plans that I have submitted to you.

In my opinion, I believe that I am reasonably entitled to receiving the requested variances as I meet all the requirements for such a variance. As you know, a large percentage of my property is located in the public right of way, which is a major highway.

As indicated above, there are special circumstances that are attached to my property, which include the dimensions and the location of the street. Unless I obtain the variance, I will be unable to enjoy my property. The requested variance will not substantially affect the Park City General Plan, will not be against the public interest, is within the spirit of the Land Management Code and will not do substantial justice, more particularly described as follows:

The spirit and intent of the "third story tier rule", in my opinion, is **not to prohibit a 27 foot height in the "front" facade**, but to insure that the building does not go higher than 27 feet from the front base when the building is tiered, unless it is set back a minimum of 10 feet. That make perfect sense as the spirit is to **limit the visible height from the street to no more than 27 feet**. In my case, **I never exceed 27 feet and meet this intent**.

If you review the attached two exhibits that the City has prepared, you can see that in both cases the front façade is 27 feet, but when you calculate the height going back to the remaining tiers of the building, the building can theoretically exceed 50 feet, depending on the slope. Under the Code, you can increase the building volume and buildable area by building retaining walls (as



marked on the attached), giving the property owner more square footage (and building volume) _____, a luxury that I do not have because my lot is “flat”. As such, I am “penalized” because I don’t have a sloped lot wherein I can “go up” to build a larger building (as compared to the _____).

peculiar to the Property, not from conditions that are general to the neighborhood. In determining whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.

The unique situation with this corner lot is that the highway encroaches on the front yard by up to twenty-two (22'). This is not a condition typical of the neighborhood but is unique to this lot. Other lots in this neighborhood with the same lot size and width do not have this setback requirement. This is not a self-imposed hardship. Additionally, the fact that the land area is flat, which is not consistent to the area, the property owner is unable to increase the height and volume of the building, similar to other lots in the neighborhood. This also is not a self-imposed hardship.

Allowing a lesser tiering along the front property to compensate for a portion of the building area taken up by the highway will help mitigate this unique situation. Granting this variance will provide me enjoyment of substantial property rights possessed by other property owners in this same district. The variance will not impact the use of the City property.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.

There are special circumstances attached to the Property due to the encroachment of State Highway 224 across the front of the lot that do not apply to other Properties in the same zone. The location and alignment on the highway in this location create special circumstances that generally do not apply to other property in the same zone and deprive the Property of privileges granted other Properties in the same zone. Additionally, the fact that the land area is flat, which is not consistent to the area, the property owner is unable to increase the height and volume of the building, similar to other lots in the neighborhood. This also is not a self-imposed hardship.

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

Smaller Tiering setback: Granting a variance to the tiering is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. Granting the variance is consistent with the Design Guidelines that encourage a not to exceed 27 feet. Additionally, my entire home never exceeds 27 feet. This is a property right possessed by other Property in the same zone. Additionally, the fact that the land area is flat, which is not consistent to the area, the property owner is unable to increase the height and volume of the building, similar to other lots in the neighborhood. This also is not a self-imposed hardship.

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

The Design Guidelines encourage projects less than 27 feet. In this case I never exceed 27 feet.

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

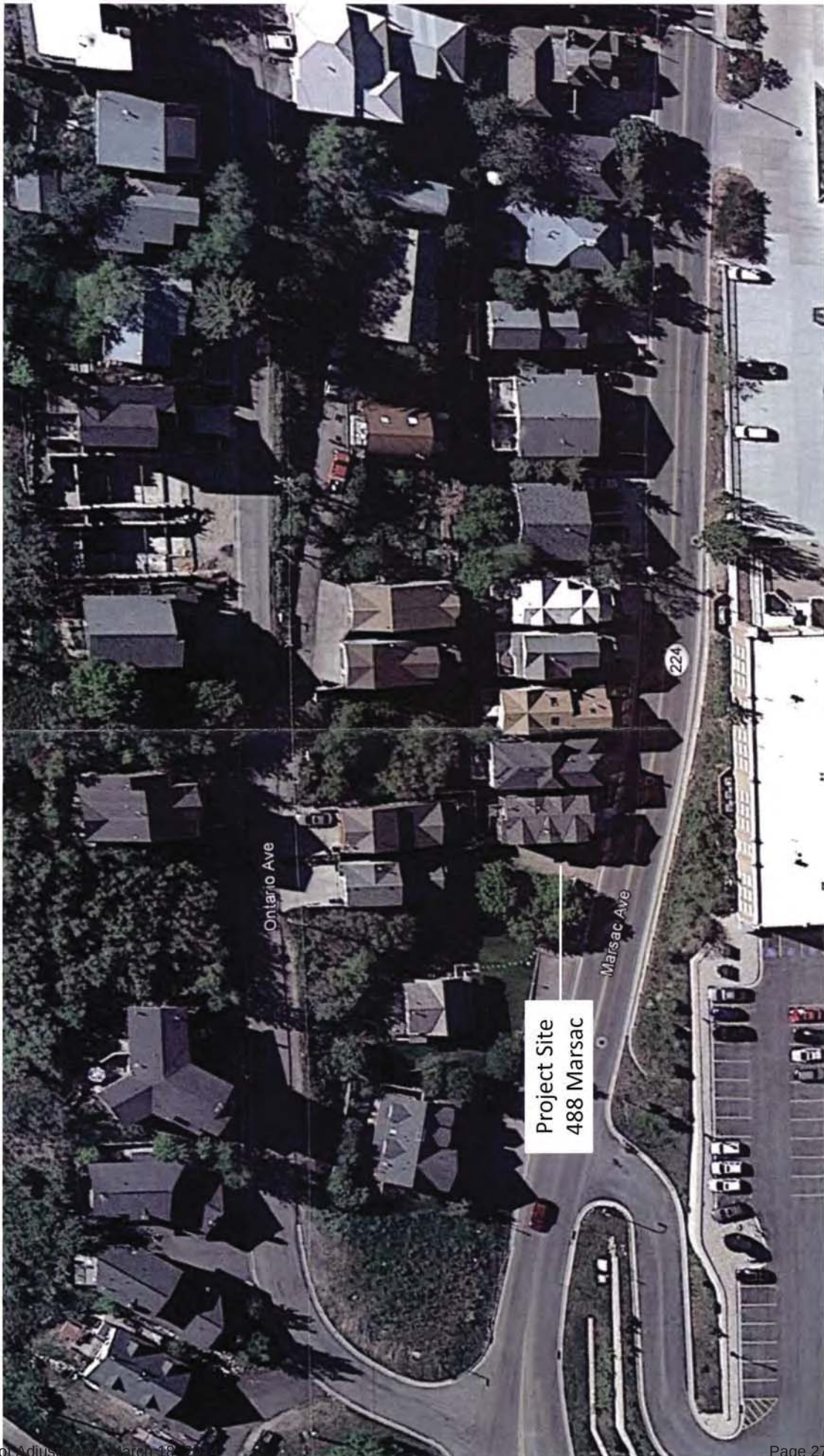
The spirit and intent of the "third story tier rule", in my opinion, is not to prohibit a 27 foot height in the "front" facade, but to insure that the building does not go higher than 27 feet from the front base when the building is tiered, unless it is set back a minimum of 10 feet. That make perfect sense as the spirit is to limit the visible height from the street to no more than 27 feet. In my case, I never exceed 27 feet and meet this intent.

Thank you for your consideration on my request.

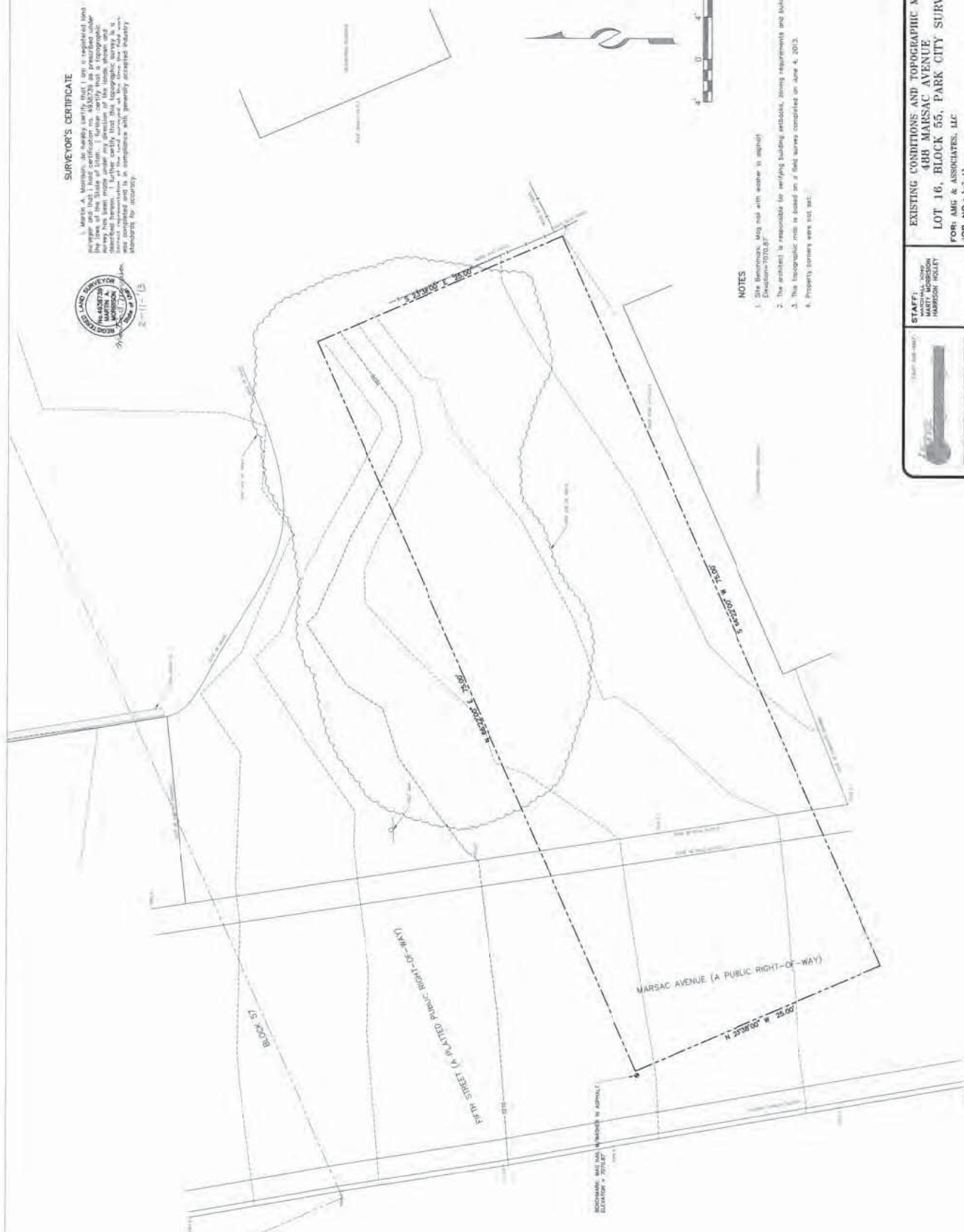
Respectfully,

A handwritten signature in dark ink, appearing to read 'Alexis Gevorgian', with a stylized, flowing script.

Alexis Gevorgian



Martin A. Morrison, do hereby certify that I am a registered land surveyor and that I hold certification no. 4330723 as prescribed under the laws of the State of Illinois. I further certify that a topographic map of the land surveyed at the time the above plat was recorded is a correct representation of the land surveyed at that time. This plat was compiled and is in compliance with generally accepted industry standards for accuracy.



NOTES

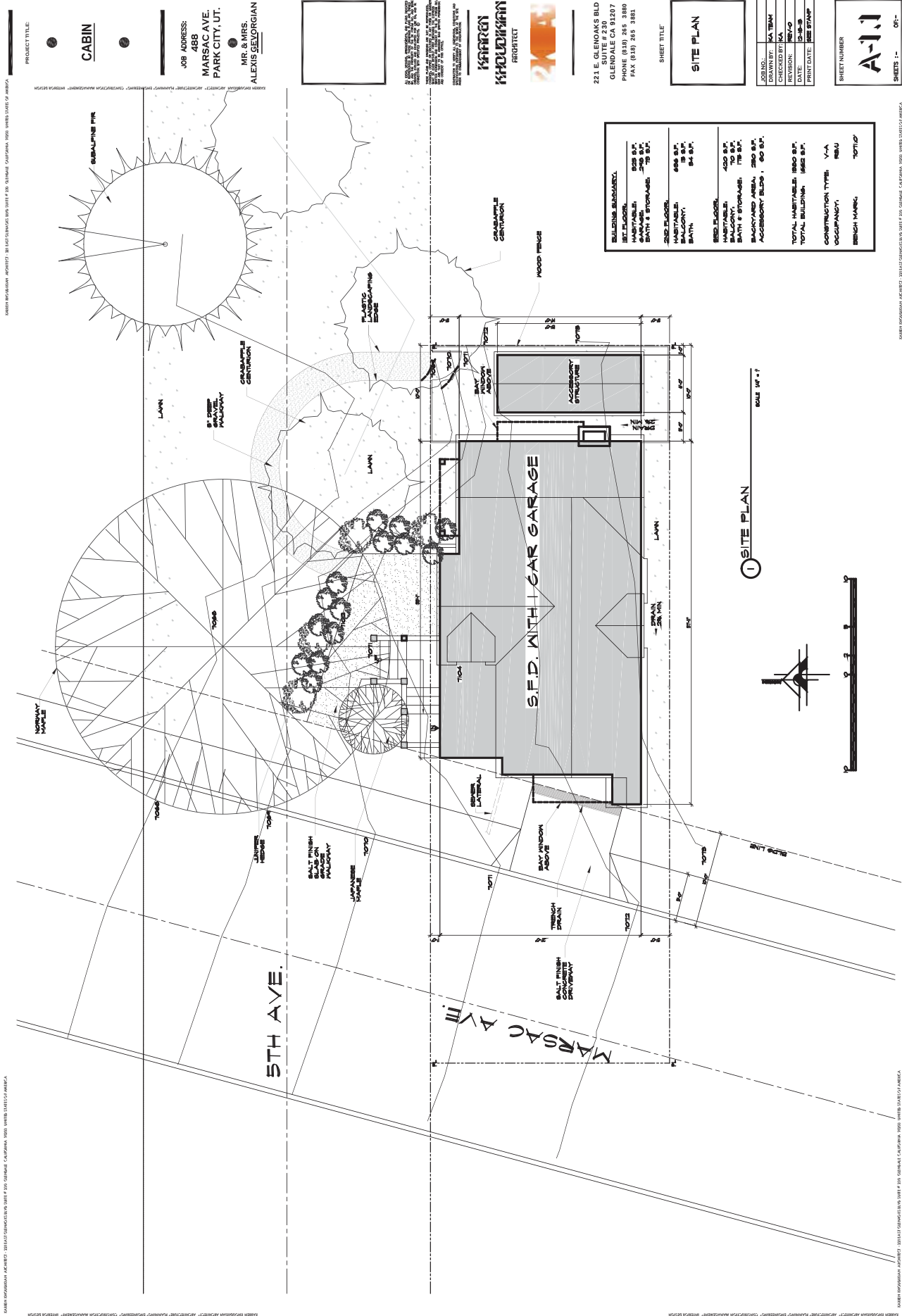
1. Site benchmark: May not align with weather is asphalt Elevation=7070.87'
2. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
3. This topographic note is based on a field survey completed on June 4, 2013. Property corners were not set.

EXISTING CONDITIONS AND TOPOGRAPHIC MAP 48B MAHSAC AVENUE LOT 16, BLOCK 55, PARK CITY SURVEY	1 OF 1	SHEET
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FOR: AMG & ASSOCIATES, LLC
JOB NO.: 2-2-13

STAFF:
MARCHALL KING
MARTY MORRISON
HARRISON HOLLEY

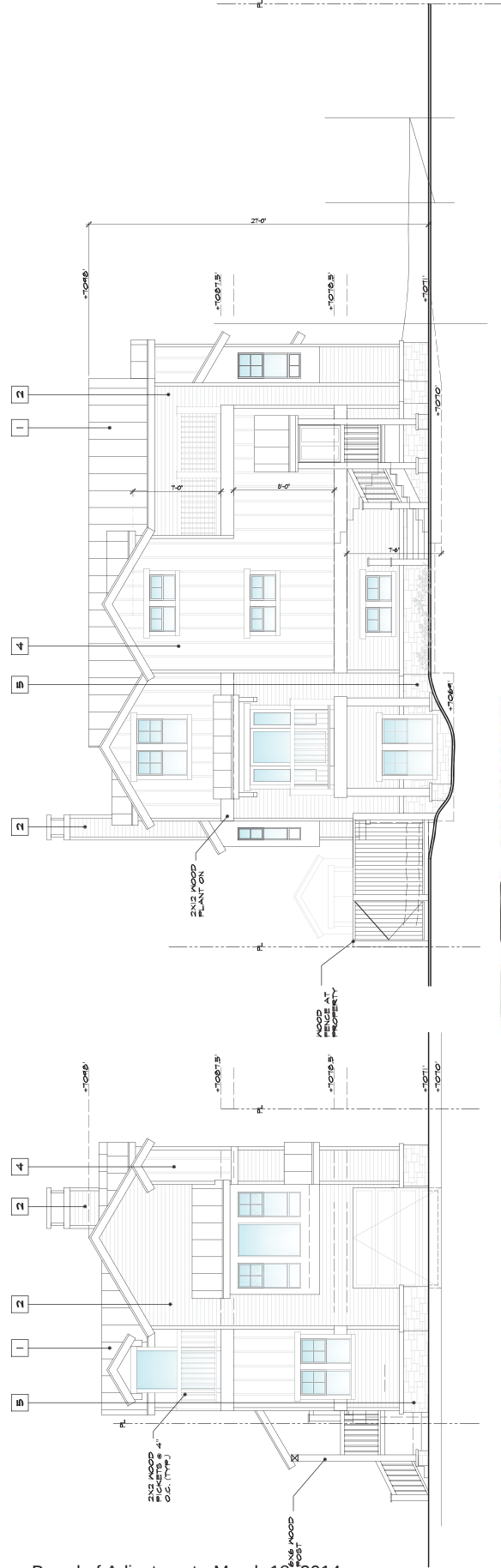




PROJECT TITLE: **CABIN**

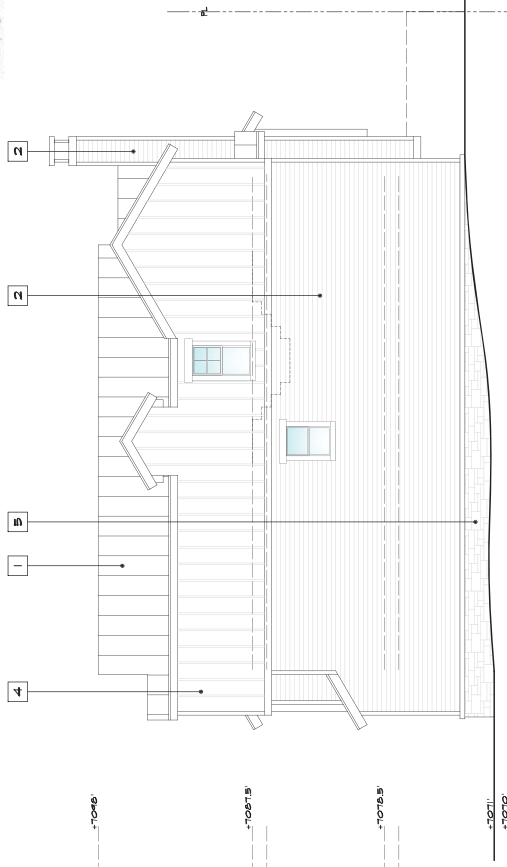
JOB ADDRESS: **488 MARSAC AVE. PARK CITY, UT.**

MR. & MRS. **ALEXIS GEVORGIAN**

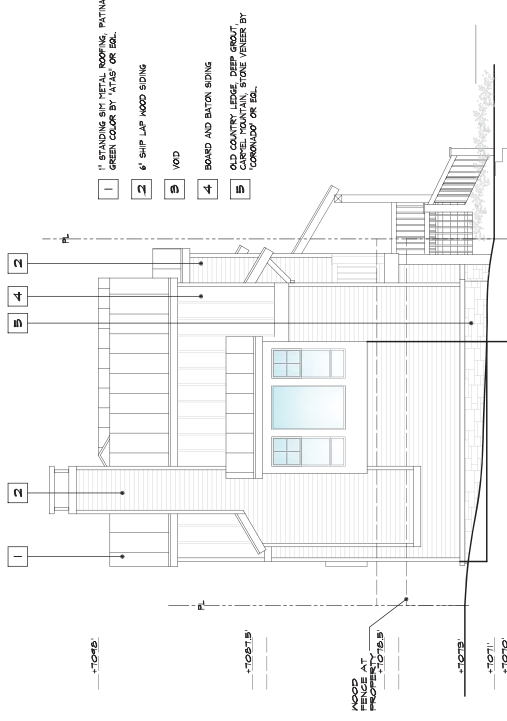


1 WEST ELEVATION SCALE 1/4" = 1'

2 NORTH ELEVATION SCALE 1/4" = 1'



3 SOUTH ELEVATION SCALE 1/4" = 1'



4 EAST ELEVATION SCALE 1/4" = 1'

- 1 1" STANDING SHIP METAL ROOFING, PATINA GREEN COLOR BY ATLAS OR BDL
- 2 6" SHIP LAP WOOD SIDING
- 3 VOID
- 4 BOARD AND BATON SIDING
- 5 OLD COUNTRY LUGG, ELDER TREES, CAMEL HAZEL, MOUNTAIN STONE VENEER BY YORKWOOD OR BDL

SHEET TITLE

ELEVATIONS

JOB NO:	008-SPD-008
DRAWN BY:	NGA TEAN
CHECKED BY:	NGA
REVISION:	REV-0
DATE:	JULY 2008
PRINT DATE:	SEE STAMP

SHEET NUMBER
A-3.1
SHEETS: 11 OF 11

PROJECT TITLE:

CABIN

JOB ADDRESS:
488
MARSAC AVE.
PARK CITY, UT.
MR. & MRS.
ALEXIS GEORGIAN

WE ARE AN EQUAL OPPORTUNITY FIRM. WE DO NOT DISCRIMINATE ON THE BASIS OF RACE, SEX, RELIGION, ETHNICITY, NATIONAL ORIGIN, AGE, SEXUAL ORIENTATION, OR MARITAL STATUS. WE DO NOT DISCRIMINATE ON THE BASIS OF ANY OTHER PROTECTED CLASS. WE DO NOT DISCRIMINATE ON THE BASIS OF ANY OTHER PROTECTED CLASS. WE DO NOT DISCRIMINATE ON THE BASIS OF ANY OTHER PROTECTED CLASS.

KAREN
PROSSERMAN
ARCHITECT



221 E. GLENDALE BLVD
SUITE # 230
GLENDALE CA 91207
PHONE (619) 266 3800
FAX (619) 266 3801

SHEET TITLE:

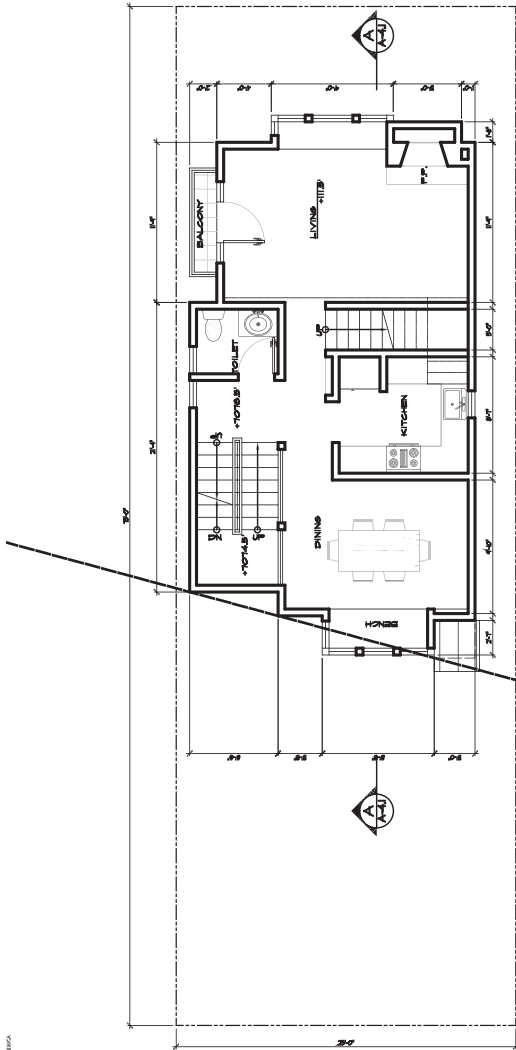
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CHECKED BY	MDA
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PRINT DATE	12-10-13

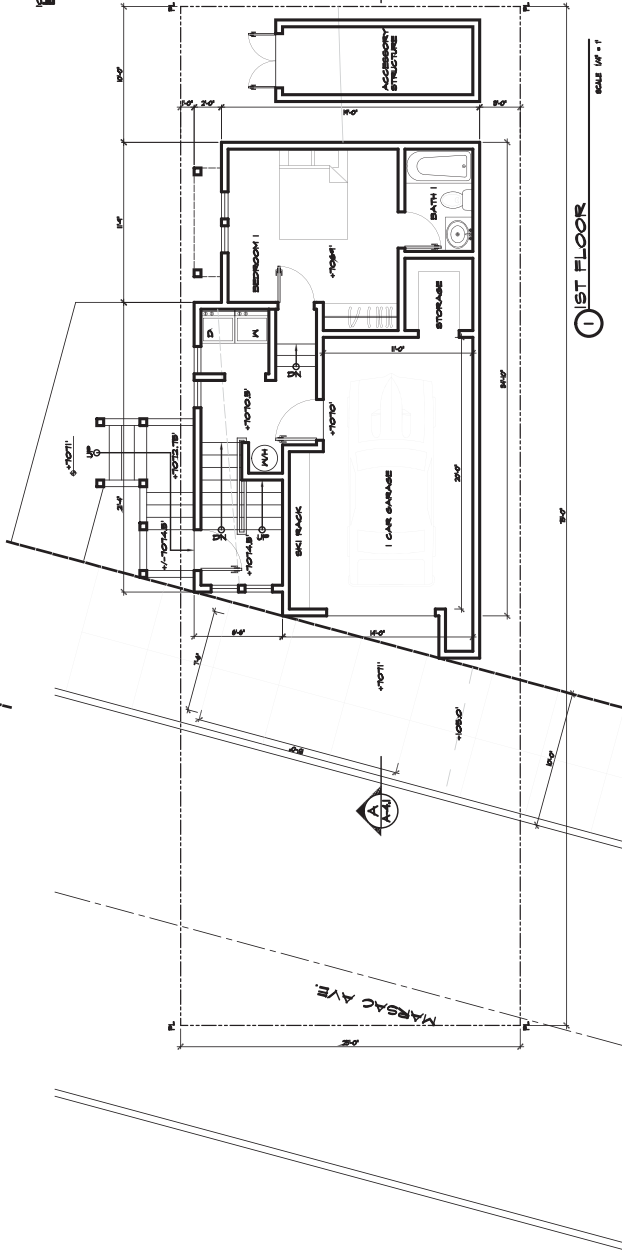
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A-21

SETS 1- 02-



2ND FLOOR



1ST FLOOR

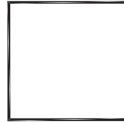
PROJECT TITLE:



CABIN



JOB ADDRESS:
488
MARSAC AVE.
PARK CITY, UT.
MR. & MRS.
ALEXIS GEORGIAN



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KAREN PROGRESS
ARCHITECT



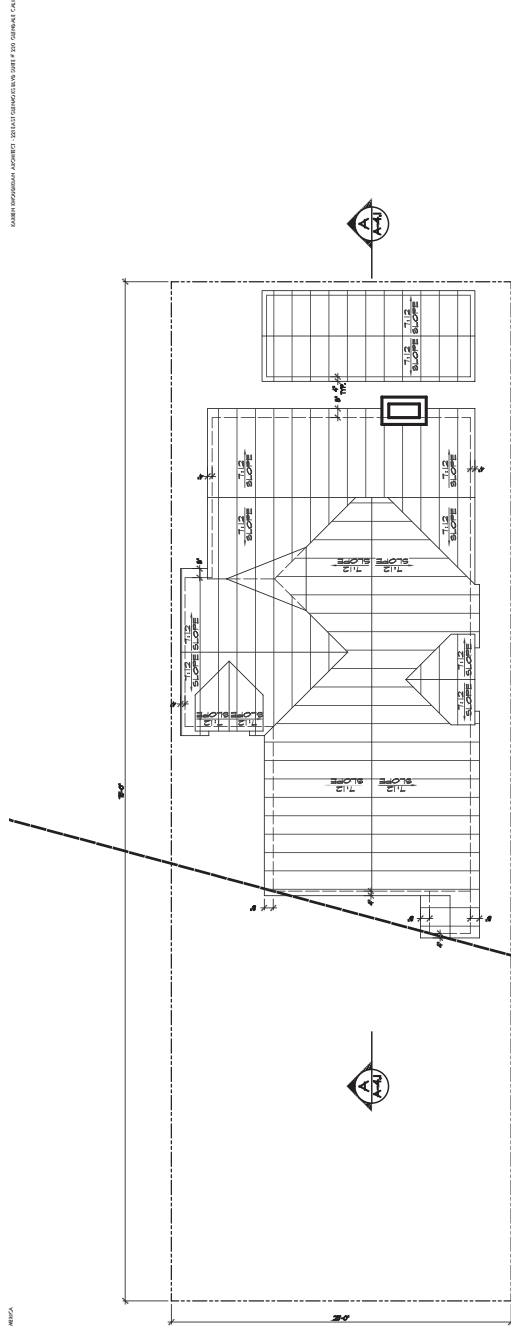
221 E. GLENDALE BLVD
SUITE # 230
GLENDALE CA 91207
PHONE (619) 245 3889
FAX (619) 245 3881

SHEET TITLE:

FLOOR PLANS

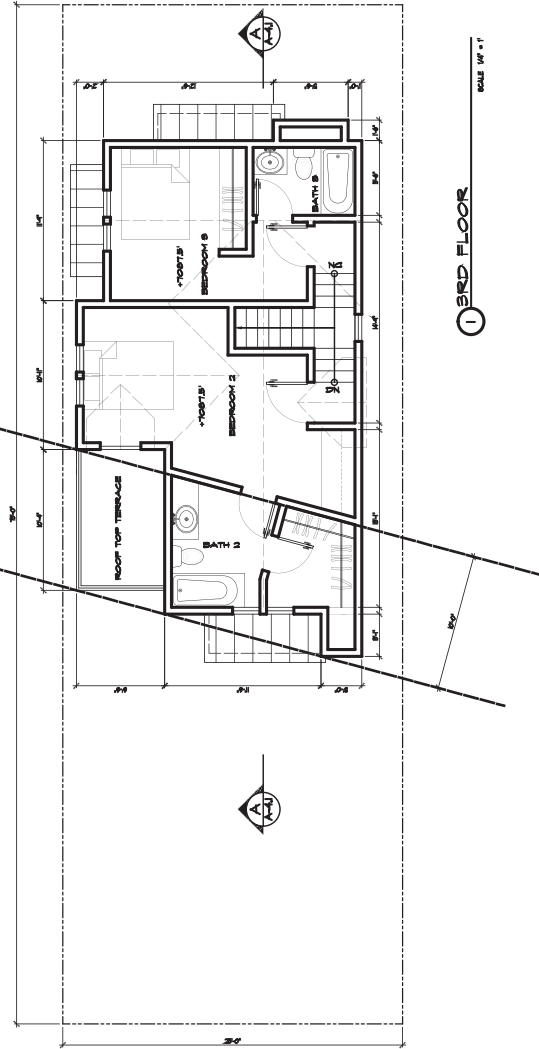
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DRAWN BY:	KOA TEAM
CHECKED BY:	KOA
DATE:	12-18-13
PRINT DATE:	08/27/14

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A-2.2
SHEETS : 1



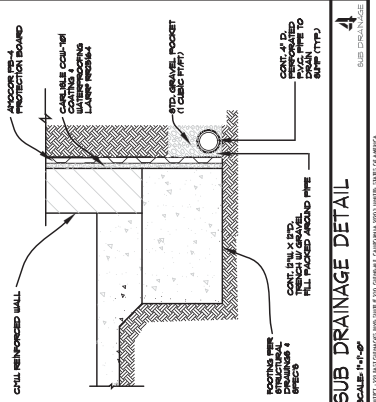
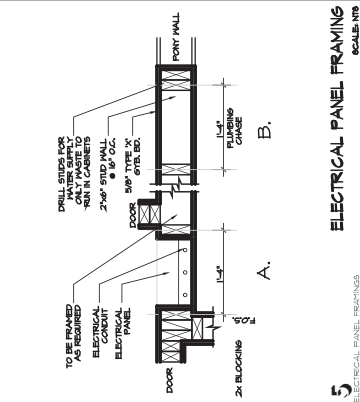
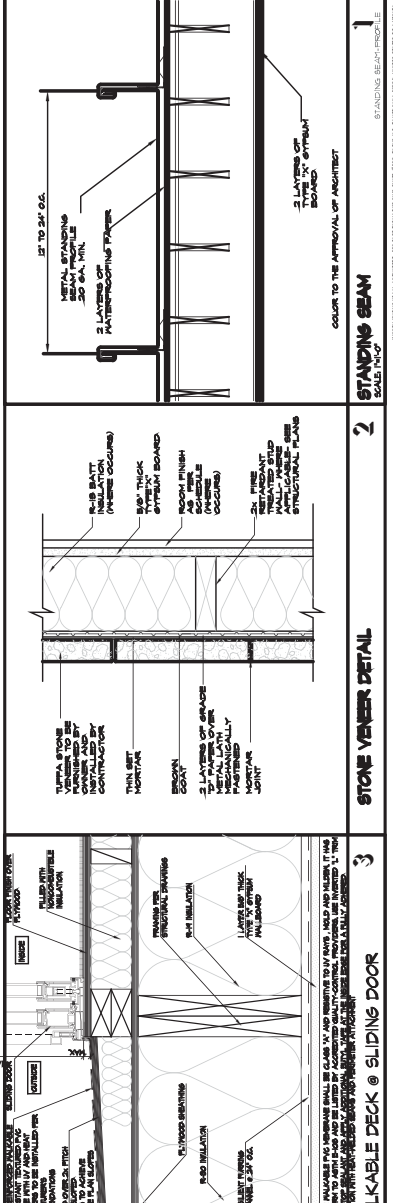
2 ROOF PLAN

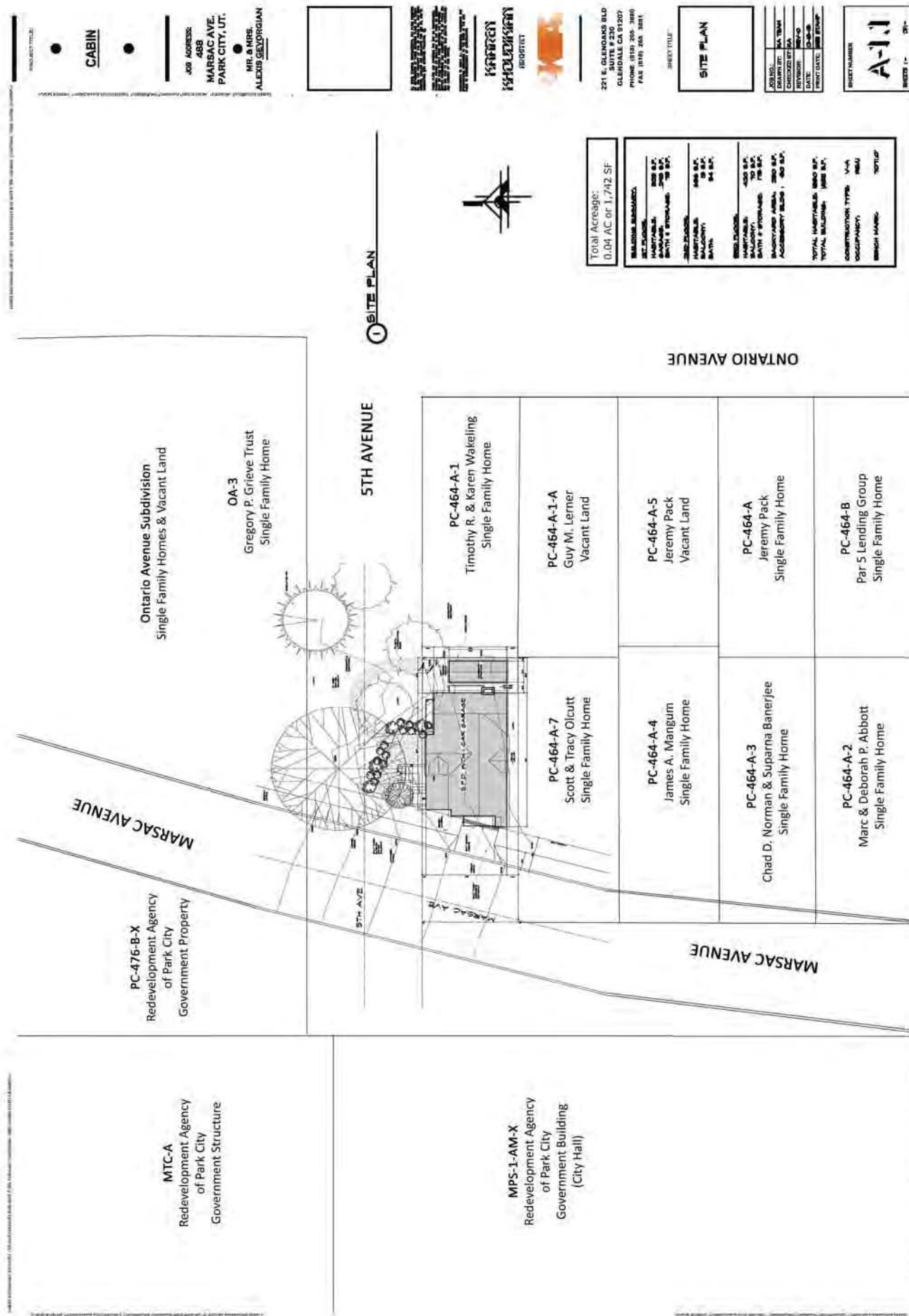
SCALE 1/4" = 1'



1 3RD FLOOR

SCALE 1/4" = 1'





Board of Adjustment Staff Report



Application #: PL-13-01766
Subject: 488 Marsac Avenue
Author: Kirsten Whetstone, Senior Planner
Date: August 27, 2013
Type of Item: Variances

Summary Recommendations

Staff recommends that the Board of Adjustment review the proposed variances, conduct a public hearing, and consider granting a variance to the north side setback allowing a one (1') foot side yard and granting a variance to the parking requirement allowing one (one) parking space to satisfy the parking requirements for the house. Staff's recommendation is based on the findings of facts and conclusions of law as outlined in this report.

Description

Applicant: Alexis Gevorgian, Owner
Location: 488 Marsac Avenue (Lot 16, Block 55 Park City Survey)
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Historic and non-historic residential, Marsac Building, platted un-built Fifth Street ROW
Reason for Review: Variances require Board of Adjustment Approval

Proposal

The applicant is requesting a reduced side yard setback on the north side from five (5') feet to one (1') foot, as well as relief from the requirement to provide the tandem parking spaces in line with each other. The applicant proposes to accommodate these two parking spaces in a perpendicular manner, due to hardships imposed on the lot by the State Highway 224 encroachment across the front of the lot. See Exhibits A, B, C, and E for an existing conditions survey, a preliminary site plan, photographs of the site and a recorder's plat of the area showing lots and platted ROW. See Exhibit F for the July 16, 2013 staff report. The Board reviewed the proposal at the July 16th meeting and continued the item. The applicant has revised his application and is requesting the Board hear his application at the August meeting.

Purpose

The purpose of the Historic Residential HR-1 District is to:

- (A) preserve present land Uses and character of the Historic residential Areas of Park City,
- (B) encourage the preservation of Historic Structures,

- (C) encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- (D) encourage single family Development on combinations of 25' x 75' Historic Lots,
- (E) define Development parameters that are consistent with the General Plan policies for the Historic core, and
- (F) establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Additional Applications

The applicant submitted a pre-HDDR (pre-Historic District Design Review) for a preliminary house design review by the Historic Design Review Team concurrent with the variance application. Staff provided input regarding the design and encouraged a design that relates to and is compatible with the historic structure located to the north of the platted, un-built ROW as well as a design that continues the general rhythm and scale of houses along Marsac Avenue. Staff has worked diligently with the Applicant while requiring no fewer than four updated preliminary designs for this site. The Design Guidelines encourage side access garages when the lot configuration and location provides an opportunity for them. The corner lot configuration of the subject property provides this opportunity. The applicant is exploring a driveway and garage directly off of Marsac Avenue based on the Board of Adjustment discussion at the previous meeting.

A Steep Slope Conditional Use Permit (CUP) is not required for this lot because the grade is relatively level and does not have a 30% or greater slope.

The applicant applied for a Conditional Use Permit (CUP) for a driveway in the platted, un-built right-of-way (Fifth Street ROW), as permitted by LMC Section 15-3-5. The purpose of the driveway is to allow a side accessed garage as encouraged by the Historic Design Guidelines and to address safety issues related to backing onto the State Highway. The CUP application requires approval by the Planning Commission. The applicant has decided to wait on pursuing this CUP and design solution until after the Board of Adjustment has ruled on the revised Variance application. A building permit is required prior to commencing construction on the lot.

Background

On December 31, 2012, the City received an application for the requested variances for the property located at 488 Marsac Avenue. The application was deemed complete on March 14, 2013, when the applicant provided a certified survey of the property. The application had been on hold to allow the applicant to proceed with the CUP application request for a driveway within the un-built platted Fifth Street ROW, as well as to work with Planning Staff on the house design for compliance with the Design Guidelines.

On May 22, 2013, the Planning Commission conducted a public hearing on the CUP application for the driveway, requested additional information, including a survey of the driveway area and an accurate site plan and driveway design, and continued action on

the CUP to a date uncertain until the variance application had been heard by the BOA.

The previous owner of 488 Marsac also previously owned 484 Marsac and submitted a variance application on February 13, 2004 requesting a height variance to allow both houses (484 and 488 Marsac Avenue) to be constructed to a height of 33 ½ feet instead of 27 feet as required by the LMC. The Board of Adjustment reviewed the height variance request on May 18, 2004 (Exhibit E). After discussion, the Board continued the matter with direction to the applicant to work with the Staff to revise the plans to meet the height requirements and to work with Staff on roof configurations (e.g. flat, shed, or less steeply pitched) that would comply with the Design Guidelines. Later in 2004, the height variance application was withdrawn and a house was constructed at 484 Marsac in compliance with the Land Management Code and the “old” (1983) Historic District Design Guidelines. No setback variances were requested for the house at 484 Marsac which did not have an opportunity for a side access garage and which did not have the same degree of highway encroachment as 488 Marsac. Setback variances for 488 Marsac were not previously requested in the 2004 application.

The subject property, Lot 16 (488 Marsac), was sold to the current owner and remains a vacant lot.

On July 16, 2013, the Board of Adjustment reviewed the applicant’s request for variances to the front, rear and side setbacks as well as to the requirement to provide two (2) parking spaces. After discussion the Board provided mixed input and requested a continuation of the matter for the applicant to explore other alternatives (see minutes of the meeting in this BOA packet).

On August 3, 2013, the applicant submitted an email requesting revisions to the Variance application. He requested a north side setback variance to one (1’) foot for the entire structure and a variance to allow the second required parking space to be oriented parallel to the street rather than perpendicular (as the first space would be constructed).

Analysis

The property is located in the HR-1 zoning district and is subject to LMC Section 15-2.2-3, Lot and Site Requirements and Section 15-3-3 regarding parking requirements. In order to resolve the hardships and safety issues related to the encroachment of the State Highway onto the property, the applicant now requests the following two (2) variances:

- Side yard setback (North) - LMC § 15-2.2-3 (H) (2) requires a minimum five foot (5’) side yard setback for the side yard that faces a side street or platted ROW. The applicant requests a one (1’) side yard setback along the north property line that abuts platted un-built Fifth Street ROW.
- Parking requirement - LMC § 15-3-3 (I) requires that tandem parking be parallel to each other (one behind another). The applicant requests that the

second space be allowed to be parallel to the road (and perpendicular to the other parking space) .

The applicant is requesting these variances to address issues related to a hardship created by the encroachment of State Road 224/Marsac Avenue onto the front portion of the Lot. The applicant previously requested a variance to only provide one (1) parking space due to safety issues cause by reduced visibility due to the location, alignment, and volume of traffic on the highway, and had proposed a design of the parking being accessed from Fifth Street where a space could be created to provide a backing area to allow a car to access the Highway front on (e.g. not having to back onto the highway). The curve of the road at this location and the angle at which it crosses the lot creates visibility issues for vehicles backing onto the highway. The visibility issue is unique at this lot because of the curve in the road.

The applicant proposes to construct a new single family house on a vacant lot located at 488 Marsac Avenue. State Highway 224, also known as Marsac Avenue, encroaches at an angle across the front portion of the platted "old town" lot by sixteen (16') to twenty-two (22') feet. This encroachment, plus the additional area required to accommodate a ten foot (10') front setback (measured from the back of curb), equates to 812.5 sf of the total 1,875 sf lot (43% of the lot area). In an unencumbered lot of the same dimensions, the lot 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). The area of encroachment by the State Road 224 has not been dedicated to the State Department of Highways as public ROW. The entire Lot 16 is owned by the applicant and the highway is considered to be in a prescriptive easement across the lot.

Lot 16 has standard dimensions of 25' by 75' and contains 1,875 sf of lot area. The same LMC requirements and standards apply to this lot as apply to all lots of this size in the same district, including those not encumbered by a highway. The maximum building foot print allowed for a 1,875 sf lot is 844 sf. With the requested variances, the applicant is proposing a building footprint of approximately 650 sf. Without the variances the maximum building footprint would be approximately 544 sf, which is about 35.5% less than the maximum allowed building footprint (844 sf) for a standard "old town" lot. With the revised application and request only for a variance to the side setback, the building footprint could be approximately 650 sf which is approximately 77% of the maximum allowed footprint (844 sf) on a similar sized lot.

The applicant's proposed house design previously, at the encouragement of Staff and based on the Historic District Design Guidelines, included a side entrance garage on the north side of the house with a paved area for backing and turning to create ingress/egress onto the highway facing forward instead of backing directly onto the highway. The driveway area behind the garage would have allowed an additional parking space parallel to the garage space, however the space would not have been located on the lot as required by the LMC and the applicant had therefore requested a variance to provide only one (1) space. **Planning Staff and the City Engineer concur that a single car garage and a single parking space along the west side of the**

house (given the 10' front yard variance), that could both be pulled into from the 5th Street ROW, is another alternative to the parking solution. The City Engineer is supportive of access from Fifth Street and supports the applicant's Conditional Use Permit for a driveway within the platted, un-built Fifth Street ROW. Planning Staff is supportive of a variance to allow only one parking space on the property.

The applicant's design now provides a single car garage accessing directly onto Marsac Avenue. Without sufficient lot dimension, and due to the encroachment of the highway, the applicant is requesting a variance to allow the second required space to be oriented parallel to the street.

The Historic Design Guidelines discourage double wide garages, which would only be physically possible if access is granted off of Fifth Street with a CUP.

The applicant is not proposing a variance to the 27' height restriction. The allowable building footprint based on the size of the entire platted lot (1,875 sf) is 844 sf. If all of the variances are granted the building footprint could be approximately 650 sf. Without the variances the footprint would be limited to approximately 544 sf. Staff recommends approval of the side yard setback from five (5') feet to one (1'); however, **staff recommends that a variance be granted to allow only one (1) parking space, due to safety issues outlined in detail in the July 16th report, as well as design issues with paving the entire front yard to provide parking or the alternative of a double wide garage door, and requests the Board discuss this option.**

Criteria to Grant Variances

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

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship the BOA may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood. In determining whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.

Side setback: The unreasonable hardship is that a five (5') foot side yard setback is required for a corner lot; however the corner lots were not platted with greater width as is typically the case for subdivisions. The variance to allow a three (3') foot setback is not contrary to the purposes of the zoning district or purposes of setback requirements to provide space, light and ventilation between structures because the adjacent property is platted, un-built right-of-way. 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. This is not a condition typical of the neighborhood but is unique to this lot. Other lots in this neighborhood with the same lot size and width do not have this setback requirement. This is not a self-imposed hardship.

Allowing a lesser setback along the side property abutting an open right-of-way area allows approximately 50 sf of additional building area to compensate for a portion of the building area taken up by the highway. The one foot setback is not contrary to the rhythm and scale of separation in the district. Granting this variance provides the owner enjoyment of substantial property right possessed by other property owners in this same district. The variance will not impact the use of the City property.

Parking: The hardship is due to encroachment of the State Highway across the front portion of the lot restricting area for a parallel tandem parking configuration. This is not a self imposed hardship and the degree of encroachment is unique to this lot.

The Design Guidelines encourage side access garages when there is an opportunity due to the lot location or configuration of the lot. In this case there is an opportunity for a side access garage off of the Fifth Street ROW as was previously requested, however the applicant is now proposing the garage and driveway directly off of Marsac Avenue with the front entry of the house facing the Fifth Street ROW.

Lot dimensions due to the Highway encroachment limit the ability to put the second car parallel behind the garage and the applicant is requesting the variance to put the second car parallel to the street, tandem to the garage. **Staff requests the Board consider a variance to allow one (1) parking space on the lot, due to safety concerns and design concerns with paving of the entire front yard area.**

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.

Side setback: There are special circumstances attached to the Property due to the encroachment of State Highway 224 across the front of the lot that do not apply to other Properties in the same zone. The location, alignment, and the total volume of traffic on the highway in this location, create special circumstances that generally do not apply to other property in the same zone and deprive the Property of privileges granted other Properties in the same zone.

Granting a variance to the north side setback along a platted but un-built thirty foot (30') right-of- way lessens impacts of the hardship by allowing additional building area to make up for area taken up by the highway and allows the property owner privileges granted to other Properties in the same zone.

Parking: The property is a corner lot and adjacent to a platted, un-built ROW that provides a special circumstance and opportunity to provide a side access garage. The special circumstance due to encroachment of the State Highway across the front portion of the lot restricts lot area to provide for parallel tandem parking. The applicant is requesting perpendicular tandem parking configuration to provide a second space on the lot. **Staff requests the Board consider a variance to allow only one (1) parking space on the lot, due to safety concerns and design concerns with paving of the entire front yard area.**

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

Side setback: Granting a variance to the five-foot side setback is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. The variance also allows a side access garage, should a Conditional Use permit be granted by the Planning Commission, to meet the required interior dimensions. Granting the variance is consistent with the Design Guidelines that encourage single garage for new construction. Granting a variance to the five- foot side yard requirement for a typical twenty-five (25') foot wide lot also allows for enjoyment of the portion of property that is not encumbered by the Highway. This is a property right possessed by other Property in the same zone.

Parking: Granting of a parking variance allows the property owner to physically get two parking spaces on the property without taking up limited interior floor area. The variance allows the property owner to enjoy a substantial property right possessed by other Property in the same zone in compensation for the lot area encumbered by the Highway. There are other properties in this zone that have provided two (2) parking spaces in tandem, however the lots either don't have the same degree of State Highway encumbrance or the spaces provided don't meet the dimension requirements for code compliant spaces. It allows a second car on the property in a different configuration to what is required, in a perpendicular rather than parallel configuration. **Staff requests the Board consider a variance to allow only one (1) parking space on the lot, due to safety concerns and design concerns with paving of the entire front yard area.**

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

Side setback: The side setback variances will not substantially affect the General Plan and will not be contrary to the public interest. The setbacks facilitate a design that is consistent with the Design Guidelines and is compatible with the surrounding historic structures and not contrary to the public interest.

Parking: The parking variance will not substantially affect the General Plan and is not contrary to the public interest in that two parking spaces will be provided on the lot.

Staff requests the Board consider a variance to allow only one (1) parking space on the lot, due to safety concerns and design concerns with paving of the entire front yard area.

A parking variance to allow one parking space is consistent with the General Plan and promotes less reliance on the automobile. The lot is located in close proximity to China Bridge parking, Main Street and the transit center further reducing the need for two (2) on-site parking spaces.

The Design Guidelines encourage side access garages when there is an opportunity for them. In this case there is an opportunity for a side access garage off of the Fifth Street ROW, provided a CUP is granted by the Planning Commission; however the lot width does not allow for a second car in a tandem configuration on the lot and a double wide garage is not consistent with the Design Guidelines. Paving the front yard to provide a perpendicular tandem space is also not consistent with the Design Guidelines which is why staff supports a variance to allow one parking space.

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

The side yard and parking variances do not conflict with the spirit of the zoning ordinance. The spirit of the Land Management Code is observed and substantial justice is done in that the variances allow 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. **Staff requests the Board consider a variance to allow only one (1) parking space on the lot, due to safety concerns and design concerns with paving of the entire front yard area.**

Process

If the variance requests are approved, the applicant can continue to move forward by applying for a full Historic District Design Review utilizing the setbacks and parking variances granted by the Board of Adjustment. If the applicant decides to pursue a design that utilizes a portion of the Fifth Street ROW for a side accessed garage and driveway, then action by the Planning Commission on the driveway design will be required prior to issuance of any building permits. Staff review of Building Permits is not publicly noticed unless appealed. The approval of this variance request by the Board of Adjustments constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13.

Department Review

This application has gone through an interdepartmental review. No further issues were brought up at the time. The City Engineer is supportive of the use of the Fifth Street ROW for a side access garage due to alleviation of conflicts with traffic flow on Marsac Avenue. Rights of Way are platted to provide access and circulation for the surrounding lots; whether improved fully as a public street or whether partially improved to provide safer access.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The property owner would be unable to provide two parking spaces in a double wide or parallel tandem configuration, unless access off of Fifth Street is approved, in which case a two car side by side garage could physically be constructed provided that the Planning Commission grants a CUP for a private driveway to access the garage and provided the City Engineer allows for a minor reduction to the required twenty foot (20') garage depth (25' lot width minus 4' combined side setbacks minus 2' for wall and foundation construction would be a 19' deep garage). If the variances are not granted the owner would be denied an essential enjoyment of a substantial property right possessed by other property owners in the same district. If the Board desires to deny the variances, the Board should outline findings of fact and conclusions of law to support that action.

Recommendation

Staff recommends that the Board of Adjustment review the proposed variances, conduct a public hearing, and consider granting a variance to the north side setback allowing a one foot side setback, and granting a variance to the parking requirement allowing one (1) parking space to satisfy the parking requirements for the house. Staff's recommendation is based on the following findings of facts and conclusions of law:

Findings of Fact (for Staff recommendation)

1. The property is located at 488 Marsac Avenue.
2. The property is located within the Historic Residential (HR-1) District.
3. The applicant requests a variance to reduce the north side setback from five (5') feet to one (1') foot.
4. The applicant requests a variance to the requirement to orient tandem parking in parallel and requests to orient the tandem space parallel to the road.
5. The property is a vacant 25' wide by 75' deep standard "old town" platted lot.
6. The property is Lot 16 of the original Park City Survey. The lot contains 1,875 square feet.
7. 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).
8. The same LMC requirements apply to this lot as apply to all lots of this size that are not encumbered by the highway.
9. 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. Without the variances the maximum building footprint

would be approximately 544 sf, which is about 35.5% less than maximum allowed building footprint for a standard “old town” lot.

10. 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.
11. The property adjacent to the north is platted, un-built Fifth Street ROW.
12. 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.
13. There is no increase in allowed building height, building footprint, or building floor area due to the variances.
14. Granting of the variances will not impact use of the Fifth Street ROW for the purpose of a future street, staircase, or utilities. As part of the Conditional Use Permit application to construct a driveway in a portion of the ROW the applicant proposes to enhance the landscaping and create a small public neighborhood garden.
15. Snow shedding may occur onto the City ROW from the future house on the lot. Snow storage areas along Marsac Avenue are typically needed for snow removal.
16. The applicant is requesting these variances to address unreasonable hardships facing this property owner due to the encroachment of the highway, as well as to address safety issues caused by reduced site visibility due to the location, alignment, and volume of traffic on the highway. The curve of the road at this location and the angle at which it crosses the lot creates visibility issues for vehicles backing onto the highway.
17. The property is unique in that it is a corner lot and there is an opportunity to design a side access garage from the platted Fifth Street ROW to address both health and safety issues as well as design issues related to compliance with the Design Guidelines.
18. Granting of the side yard variances allows the applicant similar property rights as other property owners in the district.
19. 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 Design Guidelines encourage side access garages when the lot configuration and location provides an opportunity for them. The corner lot configuration of the subject property provides this opportunity.
20. Perpendicular tandem parking would require excess paving and a requirement for two parking spaces is not necessary due to the close proximity to public parking and public transit center. Staff supports a variance to the requirement to provide a second parking space.
21. Granting the parking variance furthers the purposes of the Design Guidelines and is not inconsistent with the pattern of development in historic Park City where many historic homes don't have any on-site parking and where historic homes are not required to have parking, and allows landscaping instead of additional paving in the front yard.

22. Access onto Fifth Street ROW with a private driveway requires approval of a Conditional Use permit by the Planning Commission.
23. A variance allowing a one (1') foot setback on the north side allows the applicant the same rights as other property owners in the district with the same size lots and does not impede the City's use of the platted ROW area and is not contrary to the purposes and intent of the Land Management Code.
24. Allowing a one foot north side yard setback, as a variance from the required five foot setback, is not contrary to the purposes of the zoning district or purposes of setback requirements to provide space, light and ventilation between structures because the adjacent property is platted, un-built right-of-way.
25. 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. Allowing a lesser setback along the side property abutting an open right-of-way area is not contrary to the rhythm and scale of separation between side yards in the neighborhood.
26. The requested variance to the parking 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 restricts the area for a tandem parking configuration. Additionally, the width of the lot does not allow a tandem configuration for a side access garage off of Fifth Street, which is encourage by the Design Guidelines when there is an opportunity due to the lot location or configuration of the lot. In this case there is an opportunity for a side access garage however the lot width does not allow for a second car in a tandem configuration on the lot and double wide garages are discouraged in the Historic District. There would be area for a second parking space behind the garage; however it would not be located on the lot as required by the code. Reduction in the required parking is consistent with the General Plan that encourages a more walkable community and discourages reliance on the automobile.
27. By granting the variances, as described in the Order below, the spirit of the LMC is observed and substantial justice is done in that the variances allow 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.
28. The findings in the Analysis section are incorporated herein.

Conclusions of Law (Staff recommendation)

1. Literal enforcement of the HR-1 District requirements for this property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variances 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 variances would allow a design for a future house that is consistent with the purposes of the Design Guidelines for Historic Districts and Historic Sites.

Order (Staff's previous recommendation)

1. The variance to LMC § 15-2.2-3 (H) – side setback on the north property line is hereby granted allowing a one (1') foot setback, with all exceptions allowed as permitted by the LMC.
2. The variance to LMC § 15-3-3 (I) – parking variance is granted to allow the tandem space on the property to be parallel to Marsac Avenue as opposed to the requirement to be perpendicular to the property. Staff alternatively recommends that a variance be granted to LMC § 15-3-6 (A) to allow only one parking space on the property due to safety and design concerns with the parallel to Marsac Avenue configuration.
3. The variances run with the land.

Conditions of Approval

1. A reciprocal snow shed agreement shall be recorded between the City and the applicant allowing for potential snow shedding onto platted, un-built Fifth Street ROW and allowing City snow storage within the front setback areas of the Lot.
2. Compliance with the Design Guidelines for Historic Districts and Historic Sites is a condition precedent to issuance of any building permits on the property.
3. The Historic District Design Review process may require adjustments to the structure that further limit the size of the structure.
4. The granting of any variances for this property does not bind the City Engineer or the Planning Commission regarding approval or disapproval of the use of the Fifth Street Right-of-Way and any encroachment into the Fifth Street Right-of-Way requires a signed and recorded encroachment agreement with the City prior to construction of such encroachments.

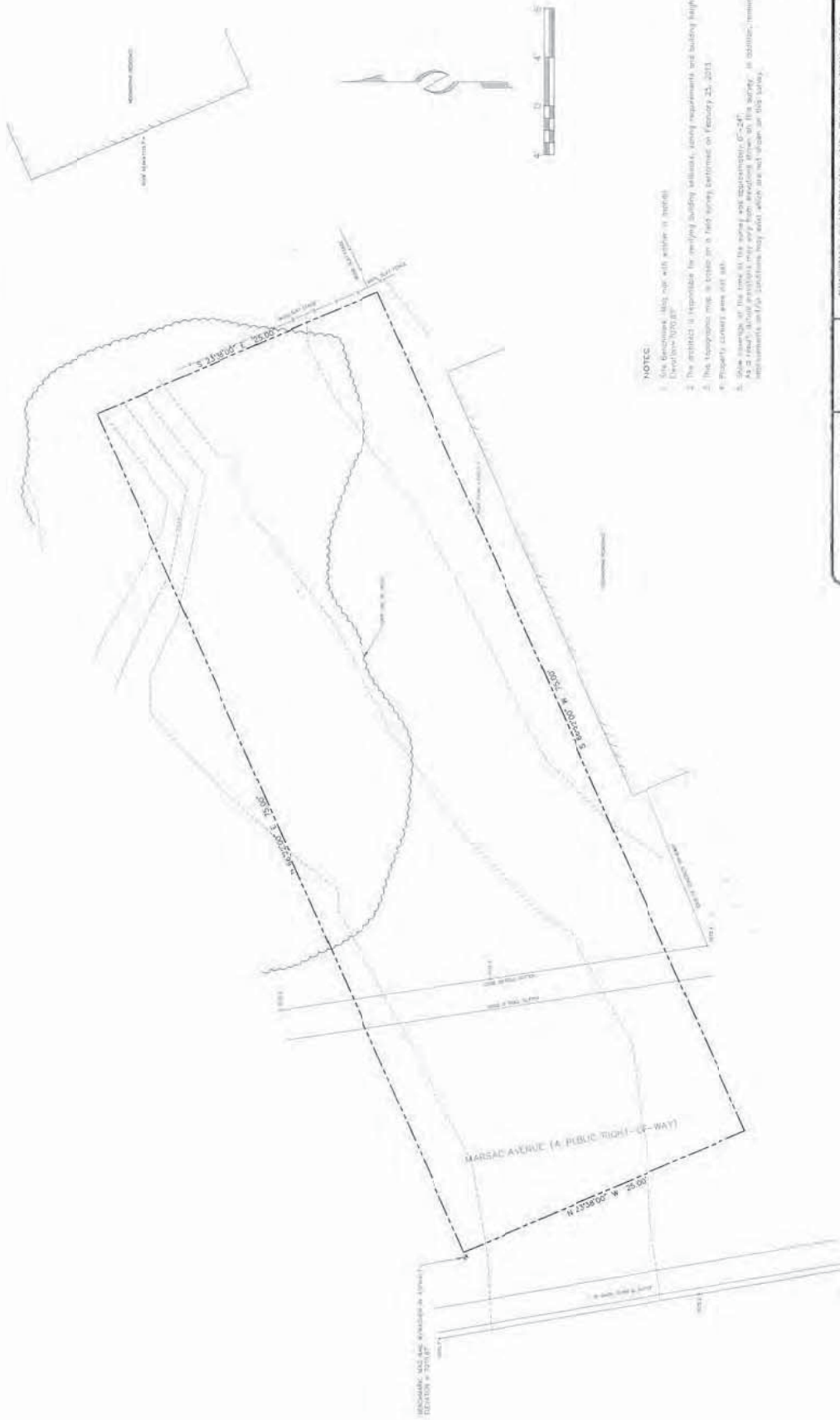
Exhibits

Exhibit A- Existing conditions survey
Exhibit B- Preliminary site plan
Exhibit C- Photographs
Exhibit D- Recorders plat of the area
Exhibit E- Minutes of May 18, 2004 BOA meeting
Exhibit F- Footprint comparison
Exhibit G- July 16, 2013 Staff Report

EXHIBIT A

SURVEYOR'S CERTIFICATE

I, **AMC & ASSOCIATES, INC.**, a duly licensed and bonded surveying firm, have surveyed and mapped the above described land and have found that the same is in accordance with the requirements of the Illinois Surveying Act of 1984, as amended, and the rules and regulations of the Board of Surveying and Mapping, as amended, and the rules and regulations of the Board of Surveying and Mapping, as amended, and the rules and regulations of the Board of Surveying and Mapping, as amended.



NOTES

1. See Description Map for all other notes and details.
2. This plat is prepared for recording in the public records and building permits.
3. This topographic map is based on a field survey conducted on February 25, 2011.
4. Property corners were set.
5. The map shows the location of the building and the building's footprint. As shown, the building's footprint is in accordance with the building's footprint. The building's footprint is in accordance with the building's footprint. The building's footprint is in accordance with the building's footprint.

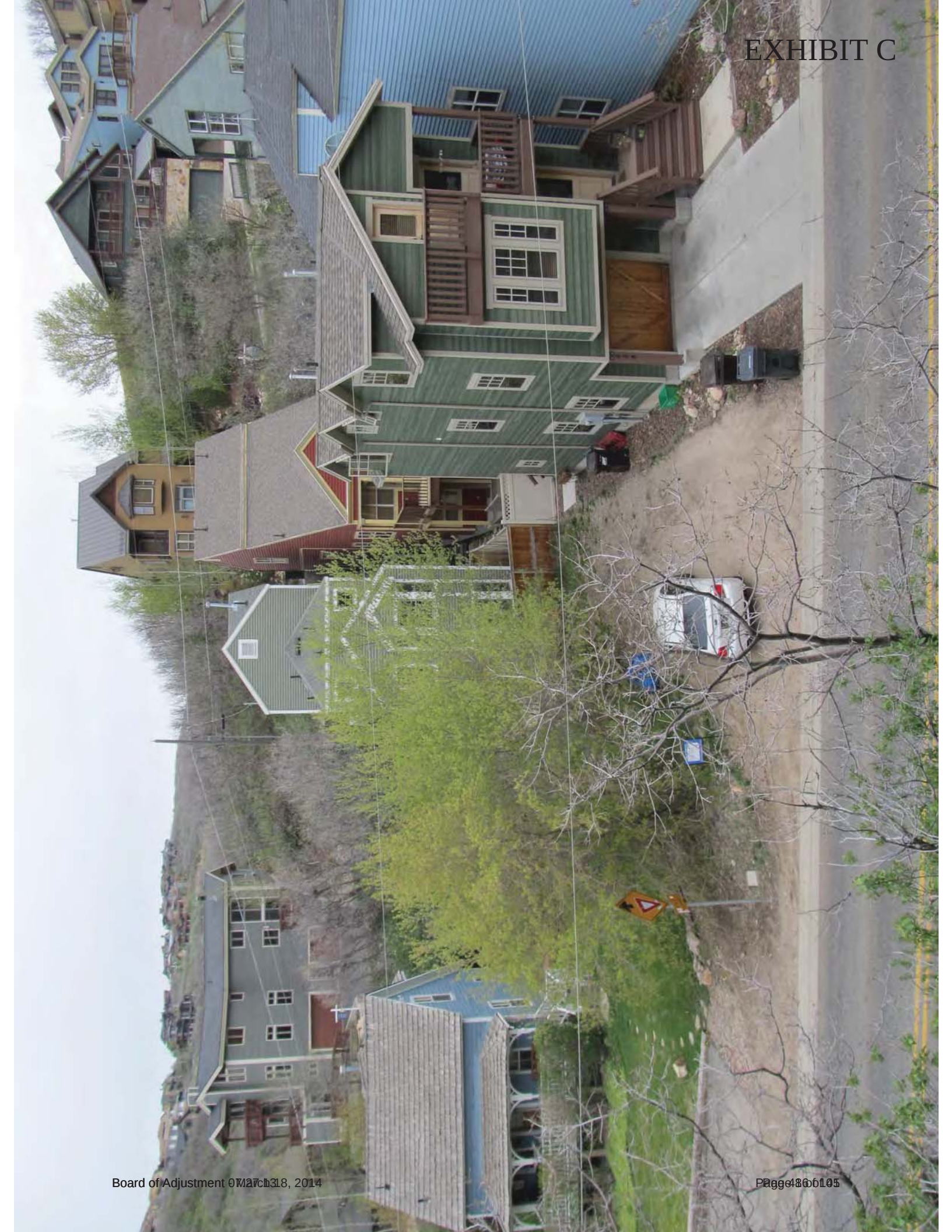


STATE:
ILLINOIS
MARTIN, ANDERSON

EXISTING CONDITIONS AND TOPOGRAPHIC MAP
400 MARSAC AVENUE
LOT 16, BLOCK 55, PARK CITY SURVEY
FOR: AMC & ASSOCIATES, INC.
JOB NO. 11-011
FILE: K:\ParkCitySurvey\map\map011\00112.dwg

DATE: 1/1/13

SHEET
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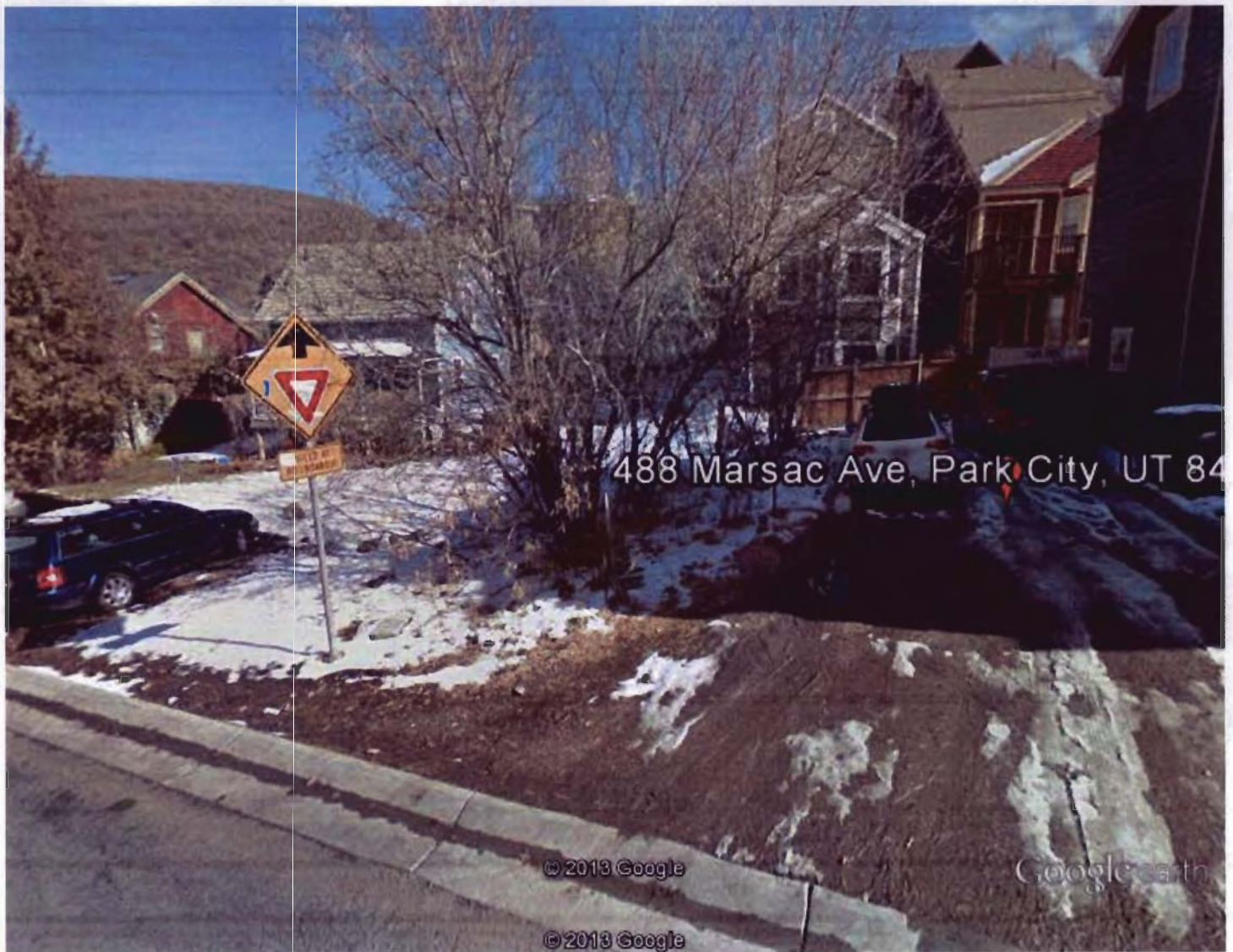




Google earth

feet 100
meters 40





Google earth

feet 8
meters 2

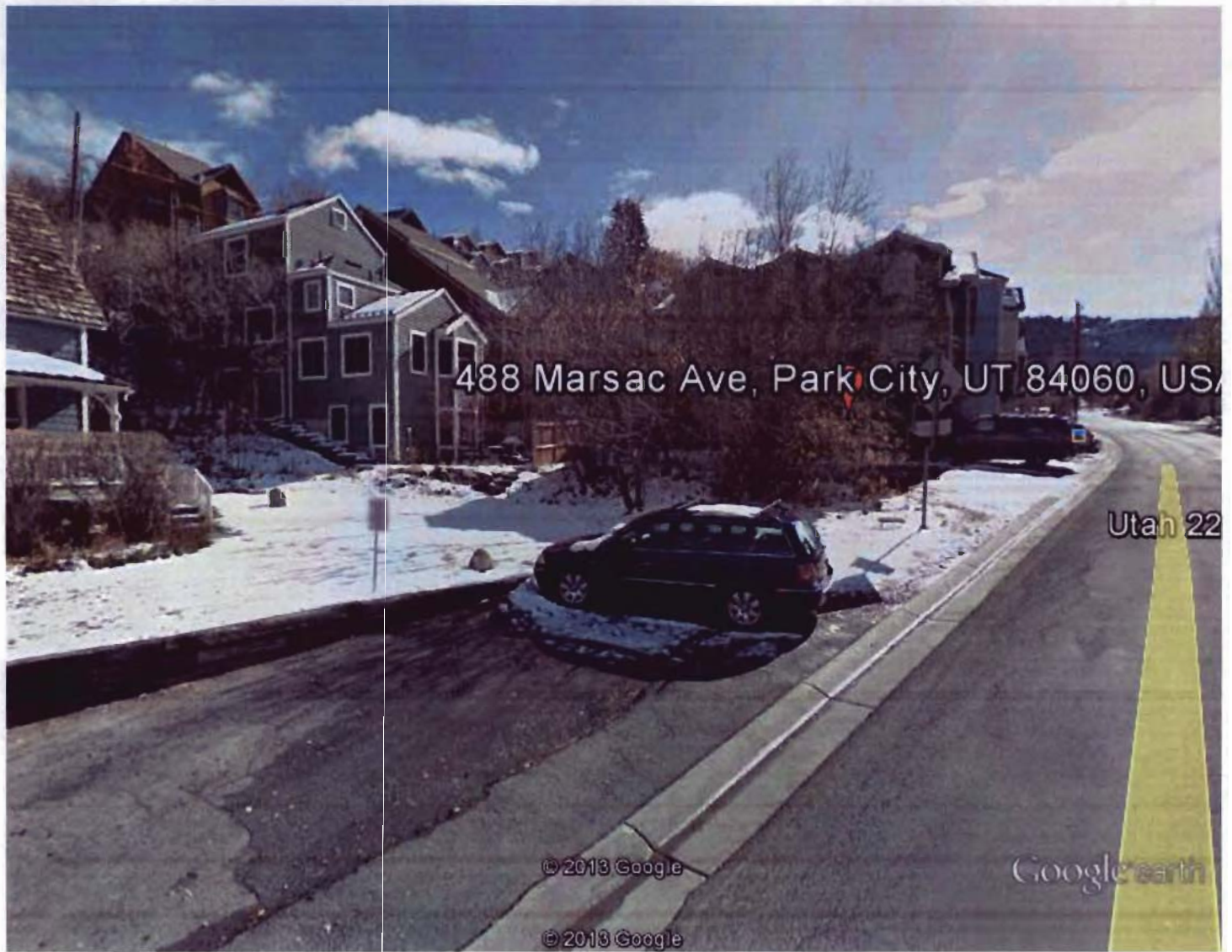




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feet 8
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Google earth

feet 9
meters 2



EXHIBIT D

PARK CITY — BLOCKS 55, 58, 62, 63, SECTION 16, T2S R4E, S.L.B. & M.

NOTE: # REFERS TO STREET ADDRESS

57

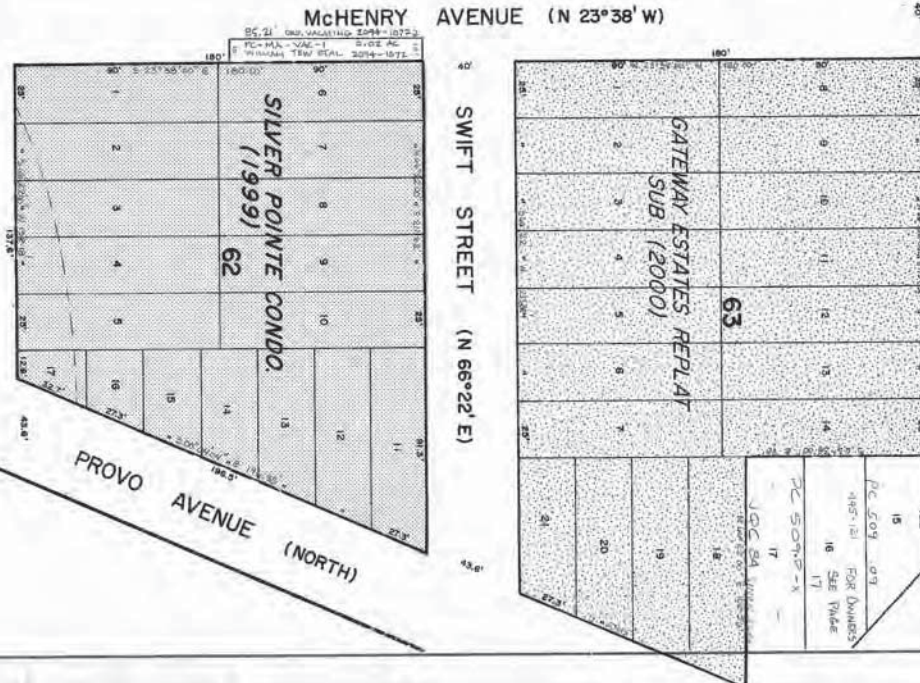
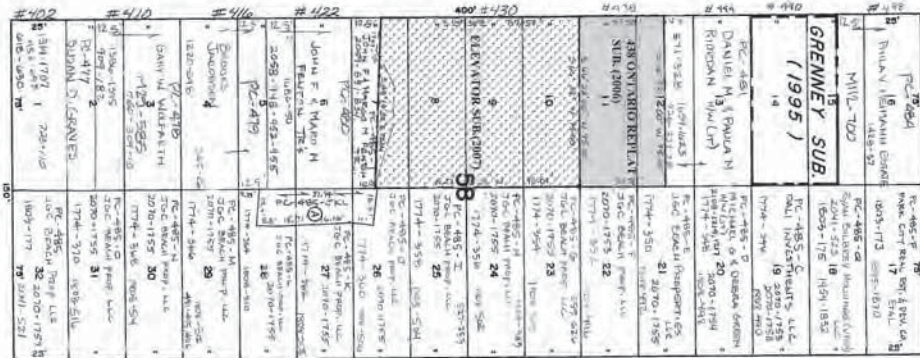
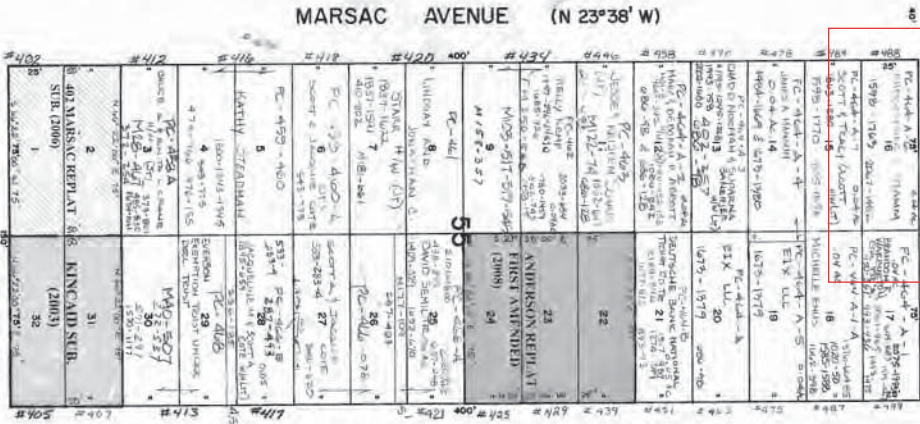
THIRD STREET (N 66°22' E)
AKA FIFTH ST

MARSAC AVENUE (N 23°38' W)

ONTARIO AVENUE (N 23°38' W)

McHENRY AVENUE (N 23°38' W)

SWIFT STREET (N 66°22' E)



54

59

61

FOURTH STREET (N 66°22' E)

APPROVED	REVISIONS - DATE AND INITIAL	(In Parenth)
Utah State Survey Comm	1/16/12	
BY		
DATE		

SUMMIT COUNTY, UTAH

SCALE
ONE INCH = 40 FEET
BOOK PAGE

EXHIBIT E

MINUTES OF PARK CITY BOARD OF ADJUSTMENT MARSAC MUNICIPAL BUILDING MAY 18, 2004

IN ATTENDANCE: Ruth Gezelius, Diane Zimney and Mary Wintzer

ABSENT & EXCUSED: Gordon Strachan

EX OFFICIO: Ray Milliner, Planner
Tim Twardowski, Assistant City Attorney
Sharon Bauman, Administrative Secretary

The first item of business was to elect a temporary chair. Mary Wintzer nominated Ruth Gezelius. Diane Zimney seconded the motion, which was unanimously approved.

Agenda Item #1

Approval of minutes for meeting of June 17, 2003

Motion: Diane Zimney moved to APPROVE the minutes of June 17, 2003, with a correction on page 11. Mary Wintzer seconded the motion, which was unanimously approved.

Agenda Item #2

484 and 488 Marsac Avenue – Request for variances to allow the height of two single family residences to be approximately 33½ feet above existing grade which would exceed the Historic Residential (HR-1) Zone height of 27 feet above existing grade – Scott White and Kenneth Stamm

Planner Ray Milliner explained that Marsac Avenue runs through both lots, taking up 25% of 488 Marsac and 20% of 484 Marsac. The applicants have requested height variances in order to gain square footage similar to that allowed on 25 x 75 foot lots. Staff analysis finds that the application meets three of the required five criteria and the Staff is requesting direction from the Board regarding criterion 2 and 3.

Planner Milliner stated that Criterion 2 requires the existence of special circumstances attached to the property that do not generally apply to other properties in the zone. Staff acknowledges that portions of both lots are taken up by Marsac Avenue and construction of single family homes similar to other in the same zone would be difficult, but the applicant's were aware of the existence of Marsac running through the parcels.

As to Criterion 3, Planner Milliner noted Staff sought direction as to whether or not the granting of the variance was essential to the enjoyment of a substantial property right for the owners. Although the buildable area was restricted, the applicants could construct approximately 1,200 sq. ft. homes.

Chair Gezelius requested clarification that the applicants were seeking square footage similar to new construction, not to historic homes. Planner Milliner explained that the footprint for new construction on a 25' x 75' lot allowed 844 square feet, while these lots would be restricted to 600 sq. ft. footprints due to the layout of Marsac Avenue.

Board Member Mary Wintzer sought clarification that this was based on the current standard that allows maximum footprints of 844 sq. ft. on 25' x 75' lots.

Attorney Tim Twardowski explained that typically there are exceptions in title reports for any existing encroachments that are visible encroachments. He noted it was atypical because the title report did not expressly exempt from ownership those portions of the lots upon which Marsac Avenue runs. As a result, the lots meet minimum lot size requirements. Had the title report shown they did not own that portion of the lots, the Board would probably be requesting a variance to the lot area requirements, based on the substandard lot sizes.

Larry Williams, attorney for Scott White and Ken Stamm, explained they had met with Staff to determine building requirements and had architectural plans drawn up. In order to meet height and setback requirements, they proposed to use a flat roof design. Staff recommended a gabled roof design and indicated they would support an application to allow the additional height for a gabled roof.

Mr. Williams noted that special exceptions were determined by six general standards and the Staff had addressed four of them in their variance analysis. The additional standards address destruction, loss, or damage of natural scenic or historic features; and, not causing material air, water, soil or noise pollution, or other types of pollution. He stressed that an additional 6½ feet in height would neither damage the neighborhood, nor create any manner of pollution.

Mr. Williams asked the Board to consider one of three options: 1) grant a special exception and allow single family residences to be built to a height of 33½ feet; 2) grant a variance to allow the height variances; or, 3) allow the applicant to build the residences, within the parameters of the Land Management Code, utilizing the flat roof design.

Chair Gezelius clarified that adjoining structures on Marsac had been built under an old code that allowed height up to 33 feet.

Chair Gezelius requested public input.

Brett Whistler, 487 Ontario, stated they purchased their home two years ago with the assumption that they would continue to have a view even if a house were built because the height was restricted to 27'. Anything higher would block their sunlight and 100% of

their view. He had looked into purchasing the lot and was aware of the restrictions. His builder had also considered purchasing the lots and suggested they be developed with one home on both lots. He and his neighbor were both opposed because of the loss of their views, sunlight, and enjoyment of living space.

Mary Wintzer reflected it was the bane of the Board of Adjustment that someone always left unhappy. She believed it was the responsibility of property owners to research the guidelines before purchasing property, and having based their decisions on that research, they have a right for those limitations to be upheld. From personal experience, small houses are livable and she believed they could construct a quaint house at a smaller size. She stated she would uphold the existing height restrictions. She noted that flat roofs were functional in snow country.

Member Diane Zimney stated she would support direction for the Staff to return with a recommendation for approval, based on the fact that Marsac Avenue rendered portions of the lots non-developable. However, she stated the project must meet the Historic District Design Guidelines.

Ruth Gezelius stated it would have been better to combine the lots and request one single family home that respected the setback, and acknowledged the existence of Marsac Avenue; however, that was not the application before the Board. She believed 6 ½ feet was an excessive variance in order to maximize a small lot and it was a self-imposed hardship because they were attempting to put too large a structure on a small lot. She was not opposed to a flat roof as they were some historic homes with flat roofs. She advised the applicants to comply with the 27' height restriction and to consider a different roof type, as that would provide a better neighborhood transition between the 33' home to the south and the smaller home to the north.

Regarding Criteria No. 2, Ms. Gezelius did not believe a 1,200 square foot home was a hardship when some homes in the same district were 600 square feet. Regarding Criteria No. 3, she noted properties in the same district varied because the rules changed, and the Board was required to enforce the current rules.

Chair Gezelius suggested that Staff work with the applicant to create a smaller structure, at a lower height, with different rooflines that would be more compatible with the smaller house on the north and the larger house on the south.

Ray Milliner clarified that they discussed a gabled roof because commercial structures traditionally have had flat roofs, but the guidelines were vague as far as residential structures. He stated Staff had never approved a new single family home with a flat roof, and he could think of very few single-family homes with flat roofs.

Ruth Gezelius asked if it were possible to build within the 27' height without a flat roof.

Mr. Williams responded they actually have the design already. Ms. Gezelius commented that she had sympathy for the 33' houses next door because of the snow shedding problems and water coming in their lower levels. She felt the transition from 33' to 27' would probably not create similar hazards.

Assistant City Attorney Twin Twardowski pointed out that the Staff had not reviewed the project under the Special Exception Criteria and at this time the Staff made no recommendation regarding those criteria. If they desired, the Board could direct Staff to return with that analysis.

Based on the Board's direction, Mr. Williams stated they wanted to stay within the 27' height, and if the flat roof were a viable alternative they would work through that. Ruth Gezelius asked what would happen if it were not. Mr. Williams said 27' was definitely workable.

Tim Twardowski stated it was his understanding there had been preliminary discussions on a staff level with respect to the flat roof design and its compliance, or non-compliance, with the Historic Design Guidelines. He stated an application had not been filed, nor had there been a formal finding that a flat roof was not possible in this location. There was language in the Design Guidelines implying that flat roof designs were discouraged, especially when adjacent to structures with gabled or pitched roof designs.

Mary Wintzer expressed concern that conducting a Special Exception analysis would delay the applicants.

Tim Twardowski said Staff had not performed an analysis of the Special Exception Criteria vis-à-vis the height limitation in the zone. Due process would require that any recommendation and ruling on a special exception be based on that analysis. If Staff and applicants were unable to agree upon a design that is in compliance with the Land Management Code and Historic District Design Guidelines and satisfactory to the applicant, then a Special Exception would become an alternative down the road.

Mary Wintzer asked whether flat roofs were discouraged even though the Land Management Code did not prohibit them.

Tim Twardowski explained there was an architectural review process to determine compliance with Historic Design Guidelines. The flat roof issue would be reviewed and findings would be made as to whether or not it was in compliance. Mary Wintzer asked if the Board of Adjustment would ever review a variance for a roof design. Ray Milliner explained that once a design was submitted, Staff would make findings relating to the Design Guidelines. If the applicant disagreed, they would appeal the decision to the Historic Preservation Board. If that decision were appealed, it would come before the

Board of Adjustment.

Ray Milliner recapped that the Board finds it preferable to have a 27' height limit on this property and the Board would like Staff to work with the applicant to come up with a design for the buildings that meets the 27' height limit as well as the Historic District Design Guidelines. The Board concurred.

Attorney Twardowski reiterated that the Board of Adjustment was not in favor of an approval on the variance application before them and should the application move forward, the Staff would be directed to return with findings for denial. In the alternative, the Board's recommendation is to work with the applicant in order to come up with a design that would satisfy both the 27' height limitation as well as the Historic District Design guidelines. If that were achieved, the variance application would be withdrawn. The Staff would only return if they could not achieve compliance with all applicable design guidelines and Land Management Code.

At 6:00 p.m., Diane Zimney moved to adjourn the meeting. Mary Wintzer seconded the motion, which was unanimously approved.

Prepared by:

Sharon Bauman
Administrative Secretary
Engineering and Planning



5. Site boundaries, Vapour not with water at student Extension-7070 87
 6. The architect is responsible for verifying building setbacks, zoning requirements and building height restrictions.
 7. This topographic map is based on a field survey performed on February 25, 2013.
 8. Property corners were not set.
 9. Snow coverage at the time of the survey was approximately 3'-24"
- As a result, certain situations may vary from extensions shown on this survey. In addition, numerous



(435) 643-9000

EXISTING CONDITIONS AND TOPOGRAPHIC MAP
488 MARSAC AVENUE
LOT 16, BLOCK 55, PARK CITY SURVEY
FOR: AMC & ASSOCIATES, LLC
JOB NO.: 3-2-13
FILE: X:\ParkCitySurvey\0-9\Topo\ps2013\0302-3.dwg

STAFF: MARSHALL KING
MARTY MORRISON

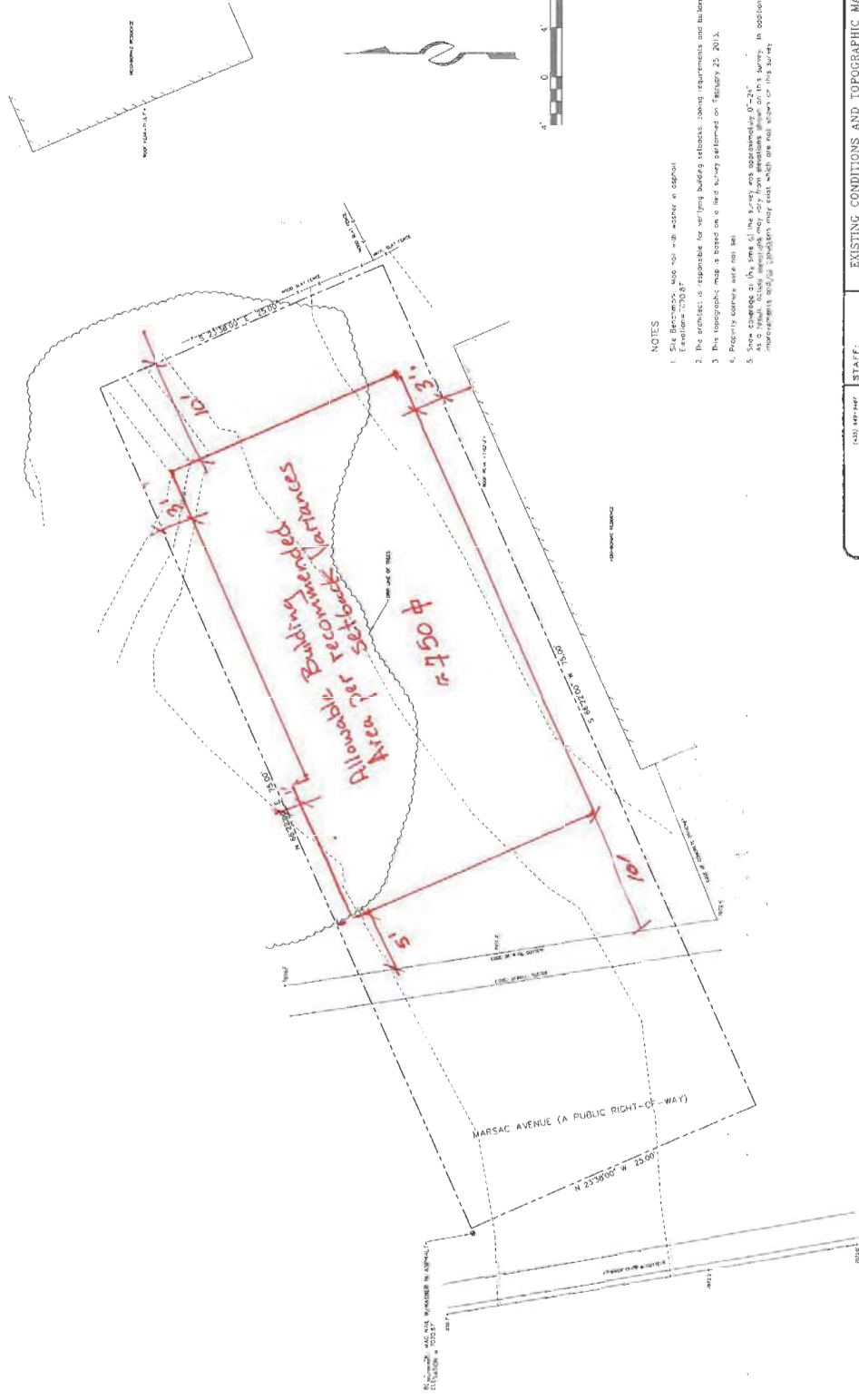
DATE: 3/1/13

4th Floor
CONFERENCE ROOMS AND MANAGER SUITES
1200 Bank Street, S.E. Atlanta, GA 30316
(415) 549-9400

SURVEYOR'S CERTIFICATE

I, **WORTH A. MASON**, do hereby certify that I am a registered land surveyor in the State of Utah. I further certify that a topographic survey of the property shown on this map was made by me or under my direct supervision and that the same was completed and is correct and true to the best of my knowledge and belief.

3-1-13



NOTES

1. See Elevation 4000' on map as shown in column.
2. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
3. This topographic map is based on a field survey performed on February 25, 2013.
4. Property corners were not set.
5. Since changes to the lines of the survey are approximately 0'-2" in length, it is recommended that the survey be repeated on the property. In addition, monuments should be placed at the corners of the property.

RECEIVED
MAR 14 2013
PARK CITY PLANNING DEPT

	EXISTING CONDITIONS AND TOPOGRAPHIC MAP 488 MARSAC AVENUE LOT 16, BLOCK 55, PARK CITY SURVEY FOR: M&S ASSOCIATES, LLC JOB NO. 13-001 FILE: 13-ParkCityPlan\13-001.dwg	SHEET 1 OF 1
	STAFF: MARSHALL, KIM JERRY MASON	DATE: 3/1/13

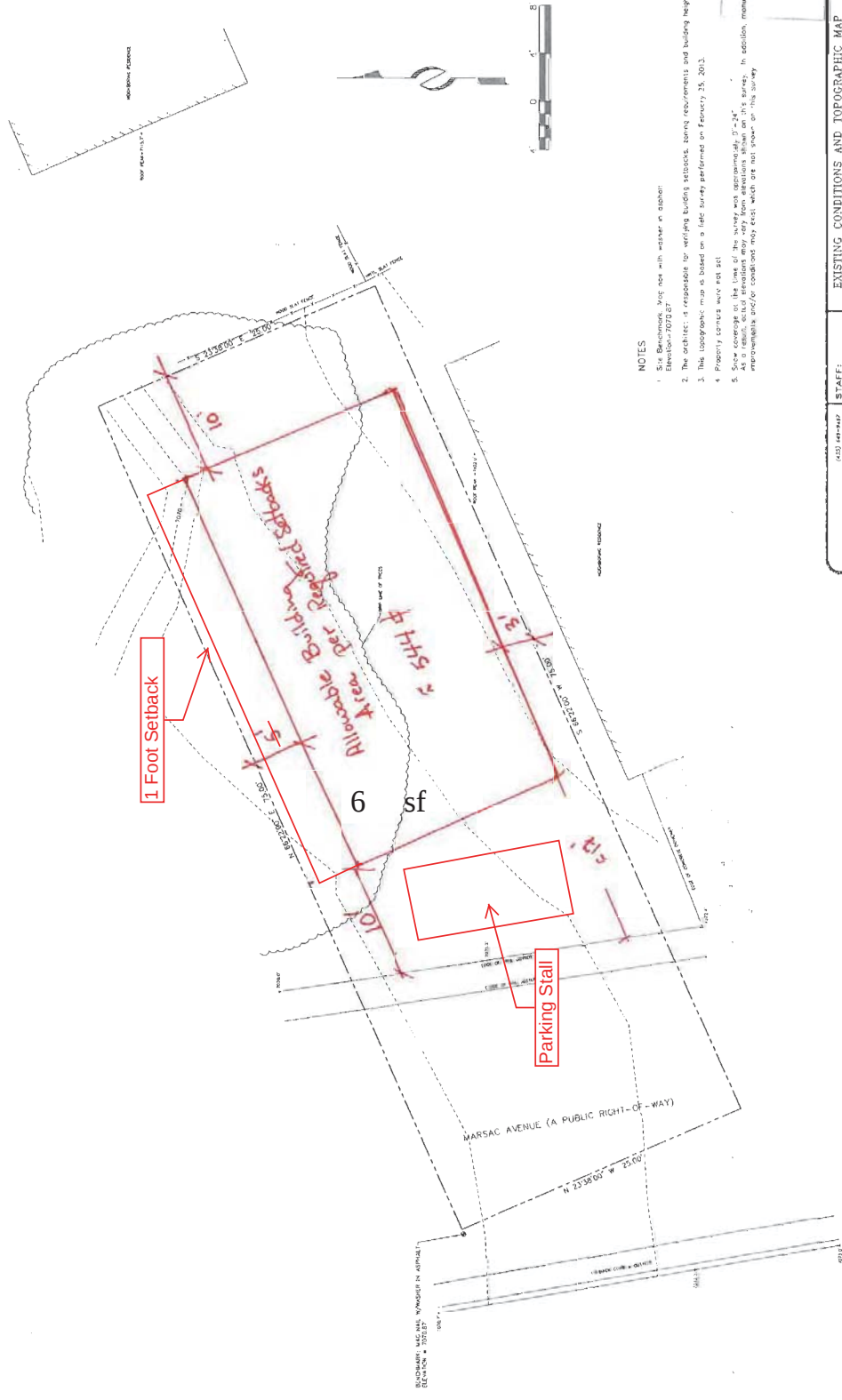
Previously requested setbacks from July 16th packet

SURVEYOR'S CERTIFICATE

I, Mark A. Hurdick, do hereby certify that I am a registered land surveyor in the State of Utah. I further certify that a topographic map was made in accordance with the standards and practices of the Surveying and Mapping Board of the State of Utah. I further certify that this topographic map is a true and correct representation of the land shown on the map and that the same has been prepared and is in accordance with generally accepted surveying standards for accuracy.



3-1-15



NOTES

1. See Benchmark (Bench) note with asterisk in upper left corner of the map.
2. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
3. This topographic map is based on a field survey performed on February 25, 2013.
4. Property corners were not set.
5. Since coverage of the time of the survey was approximately 17-24" in the area shown on the map, the survey is shown in section, monuments, measurements and/or conditions may exist which are not shown on this survey.

RECEIVED
MAR 14 2013
PARK CITY PLANNING DEPT

STAFF: MARSHALL KING JANET BOHANNON	EXISTING CONDITIONS AND TOPOGRAPHIC MAP 489 MARSAC AVENUE LOT 16, BLOCK 55, PARK CITY SURVEY FOR JMC & ASSOCIATES, LLC JOB NO. 1-2-13 FILE: X:\Parks\Survey\Map\Map2013\030213.dwg	SHEET 1 OF 1
		DATE: 3/1/13

Currently proposed setback only to north side.

Board of Adjustment Staff Report



Application #: PL-13-01766
Subject: 488 Marsac Avenue
Author: Kirsten Whetstone, Senior Planner
Date: July 16, 2013
Type of Item: Variances

Summary Recommendations

Staff recommends that the Board of Adjustment review the proposed variance requests, conduct a public hearing, and consider: granting variances to the front setback and to the parking requirement as requested; granting a variance to the north side setback to allow a one (1') foot setback for a garage and a three (3') foot setback for any non-garage area on the north side; and deny the variance to the required ten (10') foot rear setback based on the following findings of facts and conclusions of law.

Description

Applicant: Alexis Gevorgian, owner
Location: 488 Marsac Avenue (Lot 16, Block 55 Park City Survey)
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Historic and non-historic residential, Marsac Building, platted un-built Fifth Street ROW
Reason for Review: Variances require Board of Adjustment Approval

Proposal

The applicant is requesting reduced front, rear, and side yard setbacks, as well as relief from the requirement to provide two parking spaces on the lot, due to hardships imposed on the lot by the State Highway 224 encroachment across the front 20-25% of the lot. The variances are requested to address issues related to the existing hardships, as well as health and safety issues related to the location, alignment, and volume of traffic on the State Highway. Additionally, the variances allow a design that is consistent with the purposes of the HR-1 zone and that complies with the Design Guidelines for Historic Districts and Sites. See Exhibits A, B, C, and E for an existing conditions survey, a preliminary site plan, photographs of the site, and a recorder's plat of the area showing lots and platted ROW.

Purpose

The purpose of the Historic Residential HR-1 District is to:

- (A) preserve present land Uses and character of the Historic residential Areas of Park City,
- (B) encourage the preservation of Historic Structures,

- (C) encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- (D) encourage single family Development on combinations of 25' x 75' Historic Lots,
- (E) define Development parameters that are consistent with the General Plan policies for the Historic core, and
- (F) establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Additional Applications

The applicant submitted a pre-HDDR (pre-Historic District Design Review) for a preliminary house design review by the Historic Design Review Team concurrent with the variance application. Staff provided input regarding the design and encouraged a design that relates to and is compatible with the historic structure located to the north of the platted, un-built ROW as well as a design that continues the general rhythm and scale of houses along Marsac Avenue. The Design Guidelines encourage side access garages when the lot configuration and location provides an opportunity for them. The corner lot configuration of the subject property provides this opportunity.

A Steep Slope Conditional Use Permit (CUP) is not required for this lot because the grade is relatively level and does not have a 30% or greater slope.

The applicant applied for a Conditional Use Permit (CUP) for a driveway in a platted, un-built right-of-way (Fifth Street ROW), as permitted by LMC Section 15-3-5. The purpose of the driveway is to allow a side accessed garage as encouraged by the Historic Design Guidelines and to address safety issues related to backing onto the State Highway. The CUP application is being reviewed by the Planning Commission. A building permit is required prior to commencing construction on the lot.

Background

On December 31, 2012, the City received an application for the requested variances for the property located at 488 Marsac Avenue. The application was deemed complete on March 14, 2013, when the applicant provided a certified survey of the property. The application has been on hold to allow the applicant to proceed with the CUP application request for a driveway within the un-built platted Fifth Street ROW, as well as to work with Planning Staff on the house design for compliance with the Design Guidelines.

On May 22, 2013, the Planning Commission conducted a public hearing on the CUP application for the driveway, requested additional information, including a survey of the driveway area and an accurate site plan and driveway design, and continued action on the CUP to a date uncertain until the variance application had been heard by the BOA.

The previous owner of 488 Marsac also previously owned 484 Marsac and submitted a variance application on February 13, 2004 requesting a height variance to allow both houses (484 and 488 Marsac Avenue) to be constructed to a height of 33 ½ feet instead of 27 feet as required by the LMC. The Board of Adjustment reviewed the height

variance request on May 18, 2004 (Exhibit E). After discussion, the Board continued the matter with direction to the applicant to work with the Staff to revise the plans to meet the height requirements and to work with Staff on roof configurations (flat, shed, or less steeply pitched) that would comply with the Design Guidelines. Later in 2004, the height variance application was withdrawn and a house was constructed at 484 Marsac in compliance with the Land Management Code and the “old” Historic District Design Guidelines. No setback variances were requested for the house at 484 Marsac which did not have an opportunity for a side access garage and which did not have the same degree of highway encroachment as 488 Marsac.

The subject property, Lot 16 (488 Marsac), was sold to the current owner and remains a vacant lot.

Analysis

The property is located in the HR-1 zoning district and is subject to LMC Section 15-2.2-3, Lot and Site Requirements. In order to resolve the hardships and safety issues related to the encroachment of the State Highway onto the property, the applicant requests the following four (4) variances:

- Front yard setback - LMC § 15-2.2-3 (E) requires a minimum ten foot (10') front yard setback. The applicant requests a five foot (5') front yard setback for the northern front corner which puts the southern front corner at the required ten foot (10') setback.
- Side yard setback (North) - LMC § 15-2.2-3 (H) (2) requires a minimum five foot (5') side yard setback for the side yard that faces a side street or platted ROW. The applicant requests a one (1') side yard setback along the north property line that abuts platted un-built Fifth Street ROW.
- Rear yard setback - LMC § 15-2.2-3 (E) requires a minimum ten foot (10') rear yard setback. The applicant requests a seven foot (7') rear yard setback.
- Parking requirement - LMC § 15-3-6 requires two (2) parking spaces on site for new single family houses. The applicant requests one (1) parking space on site.

The applicant is requesting these variances to address issues related to the encroachment of the State highway, as well as to address safety issues caused by reduced visibility due to the location, alignment, and volume of traffic on the highway. The curve of the road at this location and the angle at which it crosses the lot creates visibility issues for vehicles backing onto the highway.

The applicant proposes to construct a new single family house on a vacant lot located at 488 Marsac Avenue. State Highway 224, also known as Marsac Avenue, encroaches at an angle across the front portion of the platted “old town” lot by sixteen (16') to twenty-two (22') feet. This encroachment plus the additional area required to accommodate a ten foot (10') front setback (measured from the back of curb) equates to 812.5 sf of the total 1,875 sf lot (43% of the lot area). In an unencumbered lot of the same dimensions, 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). The area of encroachment by the State Road 224 has not been dedicated to the State Department of Highways as public ROW. The entire Lot 16 is owned by the applicant and the highway is considered to be in a prescriptive easement across the lot.

Lot 16 has standard dimensions of 25' by 75' and contains 1,875 sf of lot area. The same LMC requirements apply to this lot as apply to all lots of this size in the district, including those not encumbered by a highway. The maximum building foot print allowed for a 1,875 sf lot is 844 sf. With the requested variances the applicant is proposing a building footprint of approximately 800 sf. Without the variances the maximum building footprint would be approximately 544 sf, which is about 35.5% less than the maximum allowed building footprint for a standard "old town" lot. With the Staff recommended variances (excluding the rear variance and allowing a one foot setback on the north side only for the garage area) the building footprint could be approximately 750 sf which is approximately 88% of the maximum allowed footprint on a similar sized lot. (See footprint comparisons- Exhibit F)

In order to create a side entrance garage off of the Fifth Street ROW and to maintain the required interior garage dimension of twenty feet, the applicant is requesting relief from the north side setback requirement of five (5') feet to allow a one (1') foot side setback.

The other variance request is for a reduction in the parking requirement from two (2) spaces on the property to one (1) space due to physical constraints of the lot dimensions and health and safety issues imposed on the lot by the alignment and encroachment of the State Highway.

The applicant's proposed house design includes a side entrance garage on the north side of the house with a paved area for backing and turning to create ingress/egress onto the highway facing forward instead of backing directly onto the highway. The driveway area behind the garage would allow an additional parking space, however the space would not be located on the lot as required by the LMC.

The Historic Design Guidelines discourage double wide garages and encourage tandem parking configurations. The Guidelines also specifically encourage side entrance garages. For side entrance garages on 25' wide standard lots, tandem parking for two (2) cars is not physically possible if a total of eight (8') feet of setbacks are provided (3' south side and 5' north side). Subtracting eight feet from the twenty-five foot width yields seventeen feet for the garage depth; short by three (3') feet from the required twenty feet. Additionally, side entrance garages are encouraged by the new Historic District Design Guidelines. Approval of a design that includes a side entrance garage with a driveway off of un-built Fifth Street requires approval of the Conditional Use Permit from the Planning Commission.

The applicant is not proposing a variance to the 27' height restriction. The allowable building footprint based on the size of the entire platted lot (1,875 sf) is 844 sf. If all of the variances are granted the building footprint could be approximately 800 sf. Without

the variances the footprint would be limited to approximately 544 sf. Staff recommends approval of some of the variances which would yield a footprint of approximately 750 sf.

Criteria to Grant Variances

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

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship the BOA may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood. In determining whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.

Front setback: The unreasonable hardship is that the front portion of the lot is encumbered by State Highway 224 (Marsac Avenue) and the same lot and site requirements apply to this lot as to other unencumbered lots in the district. There are health and safety hardships caused by reduced site distance and visibility due to the location, alignment, and volume of traffic on the highway. The curve of the highway at this location and the angle at which it crosses the lot creates site distance issues for vehicles backing onto the highway.

Side setback: The unreasonable hardship is that a five (5') foot side yard setback is required for a corner lot; however the corner lots were not platted with greater width as is typically the case for subdivisions. The variance to allow a three (3') foot setback is not contrary to the purposes of the zoning district or purposes of setback requirements to provide space, light and ventilation between structures because the adjacent property is platted, un-built right-of-way. 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.

Allowing a lesser setback along the side property abutting an open right-of-way area allows approximately 54 sf of additional building area to compensate for a portion of the building area taken up by the highway and the three foot setback is not contrary to the rhythm and scale of separation between side yards in the neighborhood. Additional hardship is created by requiring a five foot setback that limits the opportunity to build a side access garage that meets the required interior depth of 20'. The variance will not impact the use of the City property.

Rear setback: Staff does not find an unreasonable hardship caused by the required ten foot rear setback as this is a consistent requirement to provide standard separation for abutting rear yards. The applicant believes that allowing a seven (7') foot setback would provide additional building footprint that is taken from the property due to the highway encroachment. Staff finds that additional building area can be provided by a

variance to the north side setback that is not contrary to the purposes of the General Plan.

Parking: The hardship is due to the encroachment of the State Highway across the front portion of the lot that restricts the area for a tandem parking configuration and due to the width of the lot that does not allow a tandem configuration for a side access garage. The Design Guidelines encourage side access garages when there is an opportunity due to the lot location or configuration of the lot. In this case there is an opportunity for a side access garage however the lot width does not allow for a second car in a tandem configuration on the lot. There would be area for a second parking space behind the garage; however it would not be located on the lot as required by the code.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.

Front and Side setback: There are special circumstances attached to the Property due to the encroachment of State Highway 224 across the front of the lot. The location, alignment, and the total volume of traffic on the highway in this location, create special circumstances that generally do not apply to other property in the district. Variances to the front setback and north side setback reduce the hardship by allowing additional building area to make up for the area taken up by the highway and allow the property owner privileges granted to other Properties in the same zone.

Rear setback: Staff does not find special circumstances attached to the property that would be alleviated by reducing the required ten foot rear setback. The applicant believes that a smaller rear setback adds a slightly larger building area to make up for the area taken by the highway encroachment. Staff finds that there are not special circumstance affecting the rear yard and that a rear yard variance would be contrary to the public interest due to the existing standard rear yard setbacks and expectation that abutting rear yards maintain consistent separation and continue the rhythm and scale of rear yards in the neighborhood.

Parking: The property is a corner lot and adjacent to a platted, un-built ROW that provides a special circumstance and opportunity to provide a side access garage.

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

Front and Side setback: Granting the variance addresses the health and safety issues that result from backing a vehicle onto the highway due to the location, alignment, and volume of traffic at this location. The variance allows a side access garage to meet the required interior dimensions and is consistent with the Design Guidelines.

Rear setback: Staff finds that granting a variance to the rear setback is not essential to the enjoyment of a substantial Property right possessed by other Property in the same

zone and that the required ten (10') foot setback contributes to a consistent development pattern and rear yard spacing throughout the zone.

Parking: Granting of the parking variance allows the property owner to address safety issues that result from backing a vehicle onto the State highway due to the location, alignment, and volume of traffic at this location. The variance allows the owner to propose a single car garage to meet the parking requirements and is consistent with the Design Guidelines that encourage side access garages and discourage double- wide garages. Staff recommends a condition that the side access driveway shall provide adequate room to turn around, e.g. to allow a backing up area in order to prevent having to back onto Marsac Avenue.

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

Front and side setback: The front and side setback variances will not substantially affect the General Plan and will not be contrary to the public interest. The setbacks facilitate a design that is consistent with the Design Guidelines and compatible with the surrounding historic structures.

Rear setback: Staff finds that a variance to the rear setback would affect the General Plan and would be contrary to the public interest due to the existing standard rear yard setbacks and expectation that abutting properties will continue the rhythm and scale of the neighborhood.

Parking: The parking variance will not substantially affect the General Plan and is not contrary to the public interest in that a side access garage that addresses the health and safety issues of backing a vehicle onto the State highway in this location is in the public interest. The parking variance is consistent with the General Plan that promotes less reliance on the automobile. The lot is located in close proximity to China Bridge parking, Main Street and the transit center further reducing the need for two (2) on-site parking spaces. The Design Guidelines encourage side access garages when there is an opportunity for them. In this case there is an opportunity for a side access garage; however the lot width does not allow for a second car in a tandem configuration on the lot. There would be area for a second parking space behind the garage; however it would not be located on the lot as required by the code.

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

The variances will not conflict with the spirit of the zoning ordinance. Granting the variances will allow the property owner to address safety issues related to the driveway and backing onto Marsac Avenue. The spirit of the Land Management Code is observed and substantial justice is done in that the variances allow 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.

Process

If the variance requests are approved, the applicant can continue to move forward by applying for a full Historic District Design Review utilizing the setbacks and parking variances granted by the Board of Adjustment. If the applicant decides to pursue the

design that utilizes a portion of the Fifth Street ROW for a side accessed garage and driveway, then action by the Planning Commission on the driveway design will be required prior to issuance of any building permits. Staff review of Building Permits is not publicly noticed unless appealed. The approval of this variance request by the Board of Adjustments constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13.

Department Review

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

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The property would remain as is and the health and safety issue of the State Highway would have to be addressed by another means, including a design that minimizes potential conflicts with the Highway. If the Board desires to deny the variances, Staff will return at the next meeting with findings of fact and conclusions of law to support that action.

Recommendation

Staff recommends that the Board of Adjustment review the proposed variance requests, conduct a public hearing, and consider: granting variances to the front setback and to the parking requirement as requested; granting a variance to the north side setback to allow a one (1') foot setback for a garage and a three (3') foot setback for any non-garage area on the north side; and deny the variance to the rear setback based on the following findings of facts and conclusions of law.

Findings of Fact (for Staff recommendation)

1. The property is located at 488 Marsac Avenue.
2. The property is located within the Historic Residential (HR-1) District.
3. The applicant requests three setback variances to reduce to five (5') feet the front setback, to reduce the north side setback to one (1') to three (3') feet, and to reduce to seven (7') feet the required ten (10') foot rear yard setback.
4. The applicant requests a variance to the requirement for two (2) parking spaces on site to allow one parking space.
5. The property is a vacant 25' wide by 75' deep standard "old town" platted lot.
6. The property is Lot 16 of the original Park City Survey. The lot contains 1,875 square feet.
7. State Highway 224 (Marsac Avenue) encroaches at an angle across the front 16' to 22' feet of subject Lot 16. 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).

8. The same LMC requirements apply to this lot as apply to all lots of this size that are not encumbered by the highway.
9. The maximum building footprint allowed for a 1,875 sf lot is 844 sf. With the requested setback variances the applicant is proposing a building footprint of approximately 800 sf. Without the variances the maximum building footprint would be approximately 544 sf, which is about 35.5% less than maximum allowed building footprint for a standard "old town" lot. Staff recommends approval of some of the variances which would yield a footprint of approximately 750 sf.
10. 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.
11. The property adjacent to the north is platted, un-built Fifth Street ROW.
12. 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.
13. There is no increase in allowed building height, building footprint, or building floor area due to the variances.
14. Granting of the variances will not impact use of the City ROW for the purpose of a future street, staircase, or utilities. As part of the Conditional Use Permit application to construct a driveway in a portion of the ROW the applicant proposes to enhance the landscaping and create a small neighborhood garden.
15. Snow shedding may occur onto the City ROW from the future house on the lot. Snow storage areas along Marsac Avenue are needed for snow removal.
16. The applicant is requesting these variances to address unreasonable hardships facing this property owner due to the encroachment of the highway, as well as to address safety issues caused by reduced site visibility due to the location, alignment, and volume of traffic on the highway. The curve of the road at this location and the angle at which it crosses the lot creates visibility issues for vehicles backing onto the highway.
17. The property is unique in that it is a corner lot and there is an opportunity to design a side access garage from the platted Fifth Street ROW to address both health and safety issues as well as design issues related to compliance with the Design Guidelines.
18. Granting of the front and side yard variances allows the applicant the same rights as other property owners in the district.
19. 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 Design Guidelines encourage side access garages when the lot configuration and location provides an opportunity for them. The corner lot configuration of the subject property provides this opportunity.
20. Granting the parking variance furthers the purposes of the Design Guidelines and is not inconsistent with the pattern of development in historic Park City where many historic homes don't have any on-site parking and where historic homes are not required to have parking.

21. A variance to the north side setback to allow a one (1') foot setback for the garage allows a side access garage to meet the required interior dimensions and furthers the purposes of the Design Guidelines and the General Plan.
22. A variance allowing the remainder of the house to be constructed with a three foot north side yard setback allows the applicant the same rights as other property owners in the district with the same size lots and does not impede the City's use of the platted ROW area.
23. Allowing a three foot north side yard setback, as a variance from the required five foot setback, is not contrary to the purposes of the zoning district or purposes of setback requirements to provide space, light and ventilation between structures because the adjacent property is platted, un-built right-of-way. 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. Allowing a lesser setback along the side property abutting an open right-of-way area allows approximately 54 sf of additional building area to compensate for a portion of the building area taken up by the highway and the three foot setback is not contrary to the rhythm and scale of separation between side yards in the neighborhood.
24. The requested variance to the rear setback is not necessary to allow the applicant the same right as other property owners in the district and would be contrary to the public interest due to the existing standard rear yard setbacks and expectation that abutting rear yards maintain consistent separation and continue the rhythm and scale of rear yards in the neighborhood.
25. The requested variance to the parking requirements 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 restricts the area for a tandem parking configuration. Additionally, the width of the lot does not allow a tandem configuration for a side access garage which is encourage by the Design Guidelines when there is an opportunity due to the lot location or configuration of the lot. In this case there is an opportunity for a side access garage however the lot width does not allow for a second car in a tandem configuration on the lot and double wide garages are discouraged in the Historic District. There would be area for a second parking space behind the garage; however it would not be located on the lot as required by the code. Reduction in the required parking is consistent with the General Plan that encourages a more walkable community and discourages reliance on the automobile.
26. By granting the variances, as described in the Order below, the spirit of the LMC is observed and substantial justice is done. The spirit of the Land Management Code is observed and substantial justice is done in that the variances allow 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.
27. The findings in the Analysis section are incorporated herein.

Conclusions of Law (Staff recommendation)

1. Literal enforcement of the HR-1 District requirements for this property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance to the front and north side setbacks and reducing the required parking to one car 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 variances would allow a design for a future house that is consistent with the purposes of the Design Guidelines for Historic Districts and Historic Sites.

Order (Staff recommendation)

1. The variance to LMC § 15-2.2-3 (E) – front setback requirement is hereby granted allowing a minimum of five (5') foot front setback for the northern front house corner and requiring a minimum of ten (10') foot front setback for the southern front house corner with all exceptions allowed as permitted by the LMC.
2. The variance to LMC § 15-2.2-3 (E) – rear setback requirement is hereby denied and the full ten (10') foot rear setback is required, with all exceptions allowed as permitted by the LMC.
3. The variance to LMC § 15-2.2-3 (H) – side setback on the north property line is hereby granted allowing a one (1') foot setback for the garage and allowing a three (3') setback for the remainder of the house, with all exceptions allowed as permitted by the LMC.
4. The variance to LMC § 15-3-6 – parking variance is granted to allow one (1) parking space on the property.
5. The variances run 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. Construction of a driveway within the Fifth Street ROW requires approval of a Conditional Use Permit per LMC § 15-3-5. The side garage driveway design shall include a backing turn around area.
3. If the CUP for the driveway is not approved by the Planning Commission then the north side setback shall be limited to three (3') feet.
4. Compliance with the Design Guidelines for Historic Districts and Historic Sites is a condition precedent to issuance of any building permits on the property.

5. The Historic District Design Review process and the Conditional Use Permit (CUP) may require adjustments to the structure that further limit the size of the structure.
6. The granting of any variances for this property does not bind the City Engineer regarding approval or disapproval of the use of the Fifth Street Right-of-Way and any encroachment into the Fifth Street Right-of-Way requires a signed and recorded encroachment agreement with the City prior to construction of such encroachments.

Exhibits

- Exhibit A- Existing conditions survey
- Exhibit B- Preliminary site plan
- Exhibit C- Photographs
- Exhibit D- Recorder's plat of the area
- Exhibit E- Minutes of May 18, 2004 BOA meeting
- Exhibit F- Footprint comparison

MINUTES OF PARK CITY BOARD OF ADJUSTMENT
CITY HALL, COUNCIL CHAMBERS
AUGUST 27, 2013

IN ATTENDANCE: Ruth Gezelius, Rod Ludlow, Mary Wintzer, Richard Miller, Jennifer Franklin

EX OFFICIO: Thomas Eddington, Planning Director; Polly Samuels-Mclean, City Attorney; Kirsten Whetstone, Senior Planner; Shauna Stokes, Planning Technician

I. ROLL CALL

Chair Gezelius called the meeting to order at 5:25 PM and noted that Board member Fuegi was not present but was excused.

II. ADOPTION OF MINUTES FROM JULY 16, 2013

Corrections were outlined for the minutes:

- Page 1 – correction of typo of *affordable*.
- Page 4 – second to last paragraph – second sentence should read “It was *discussed* that the north side of the front yard *could* be set to a minimum of 7 or 8 feet.”
- Page 5 – second paragraph – change “3 yard setback” to “3 foot setback” in the second sentence.

MOTION: Chair Gezelius moved to approve the minutes of June 18 as amended. Board member Miller seconded the motion.

VOTE: 4-0. Motion carried unanimously.

III. PUBLIC COMMUNICATION

There was no comment.

IV. STAFF & BOARD COMMUNICATIONS

There was no comment.

V. REGULAR AGENDA

PL-13-01766 – 488 Marsac Avenue - Variance

Planner Whetstone introduced the item before the Board as a Variance request at 488 Marsac Avenue. The applicant was requesting a variance to the front yard setback, side yard setbacks, rear yard setback, and parking requirements for two parking spaces.

There is currently a prescriptive easement across the front yard of the lot for the state highway. Land Management Code requires a front yard setback of 10 feet and the applicant is requesting that setback to be reduced to 5 feet. The applicant is requesting to reduce the required 10 foot rear yard setback from 10 feet to 7 feet. The North side of the property abuts the platted yet unbuilt 5th street. Additionally, the applicant would like to put a side access into the garage on the North side of the lot due to the proximity to the road and is requesting then a variance to the North side yard setback of 1 foot for the garage and 3 feet for the house. Staff found that the 3 foot setback was consistent with spacing in old town. The applicant is also requesting a reduction of the 2 parking spaces to one.

The applicant has submitted a Conditional Use Permit for review by the Planning Commission for the use of the unbuilt, platted, street as a private driveway. The Planning Commission reviewed and continued the matter until additional details and drawings could be provided along with a finalization of the Variance process.

Planner Whetstone reviewed the Land Management Code requirements for a Variance. Staff analysis reflected that the criteria were substantially met for all requested variances with the exception of the rear yard setback where no unreasonable hardship was identified.

Chair Gezelius asked what the dimensions of the parking space would be. Planner Whetstone responded that the required size is 9 feet by 18 feet. Chair Gezelius was concerned that building a space for a smart car but owning a suburban didn't work and that the size of the space should be specified so that a substandard space be built. Additionally she identified that this lot is currently used as overflow parking for adjacent neighbors and there is a lack of parking on Marsac Avenue.

Staff recommended that the Board of Adjustment review the proposed variance requests, conduct a public hearing, and consider: granting variances to the front setback and to the parking requirement as requested; granting a variance to the north side setback to allow a one (1') foot setback for a garage and a three (3') foot setback for any non-garage area on the north side; and deny the variance to the required ten (10') foot rear setback based on the following findings of facts and conclusions of law.

Chair Gezelius questioned that Finding of Fact #3 called out that the rear yard setback reduction is shown to feet. Planner Whetstone clarified that the Finding was for what the applicant had requested and that Staff was recommending denial of the rear yard setback variance.

Board member Miller questioned that the applicant is requesting a variance to 5 feet in the front yard. The concept shows an angled design that ranges from 5 to 10 feet. Planning Director Eddington referred to Order #1 that shows the change in the front yard setback requirements.

Board member Wintzer asked if plans had been submitted. The applicant had provided conceptual designs to Staff. Board member Wintzer asked regarding the variance on the right-of-way and whether it was contingent on the approval of the Conditional Use Permit by the Planning Commission. Planning Director Eddington clarified that the parking pad would be in the right-of-way but that the garage would not cross the property line. Planner Whetstone explained that the variance for the parking space is due to the fact that per Land Management

Code the parking is required on-site and so the parking in the right-of-way would not count towards the required parking.

Board member Ludlow was concerned that a front setback variance so close to the highway may cause snow shedding issues into the road. Staff noted the concern.

Planner Whetstone clarified that 499 Ontario currently uses the vacant lot as a parking space but that there is no parking agreement in place.

Board member Wintzer questioned the reduction of the snow storage area in the front yard. Staff clarified that the front yard does not fall within city right-of-way because it is a state highway and doesn't have the same requirements. Staff did create a Condition of Approval that required a agreement on the un-built 5th street so that snow storage could take place on that area.

Alexis Gevorgian, the owner of the property, addressed the Board. He purchased the property two years ago and has been working with staff closely over the past year on concepts that could work with the issues on the current lot and still build a livable house. He gave a presentation on the site and the unique circumstances of the lot. He stated that the health and safety of the habitants of the lot along a very busy highway would be better served by moving the access to the side of the lot as it would allow greater visibility to entering and exiting off of the highway. He felt Staff had done a thorough review and analysis. With respect to the rear yard setback he noted that it would allow him to build on a larger footprint and would have insignificant impacts on the neighborhood. Additionally he noted that he would request the north side yard setback reduction be to 1 foot to allow for additional square footage. Mr. Gevorgian argued that a reduction of parking requirements would be minimal in impact due to the proximity to the transit center.

Board member Ludlow asked where the front door would be. Mr. Gevorgian answered that it would be to the left of the garage and clarified that there would not be a door on the Marsac side of the structure.

Board member Ludlow felt the 5 yard setback reduction on the front yard may cause health and safety issues with the proximity to the highway and asked about further reduction in the rear yard setback to compensate. The owner felt justified in the front yard setback variance and did not want to cause proximity issues with the built structure behind the property.

Board member Wintzer asked what the square footage would be. Mr. Gevorgian answered that the approximate square footage is 1400 square feet and a footprint of 750 feet. Staff added that standard footprint for this lot size would be 844 feet. Without variances the applicant would achieve an approximate footprint of 540.

There was discussion regarding the height of neighboring structures. Mr. Gevorgian responded to Board member Miller that he was aware of the road running through his existing lot when he purchased the property.

Board member Miller did not believe that there would be visibility of traffic on the south side of the house from the driveway as proposed. Chair Gezelius understood this to be an issue with

many homes along Marsac Avenue. Mr. Gevorgian's engineer has reviewed the concept and found that the further the north the exit be the better the visibility becomes.

Chair Gezelius opened the public hearing.

David and Karen Wakeling who live in the house located at 499 Ontario. They live in the property behind the vacant lot before them. They are not in favor of any variances. They believe that the driveway and parking pad on the right-of-way would take away from neighborhood parking. Additionally they use that un-built right-of-way as pedestrian access. Planner Whetstone responded that the Conditional Use Permit proposes a possible path and pocket park. They also felt that a side yard access would change the current layout of the streetscape and may hinder views of traffic for adjacent properties. They would also like to keep the rear yard setback to the standard ten feet to reduce encroachment to their property and support staff's negative recommendation on that.

Chair Gezelius closed the public hearing.

Board member Ludlow knew that the highway proposed a health and safety issue as it is a critical and dangerous area. He concurred with staff on not pushing the house back further and concurred with Staff's recommendations.

Board member Miller could not agree with the 5 foot front yard setback due to the proximity to the highway. He could allow for a variance to a 7 foot setback he would also allow for a 1 foot setback on the North side yard setback to achieve the a greater setback. Snow storage and plowing during the winter season would hinder the visibility on the highway too much to allow for a 5 foot front yard setback. He concurred with staff on the remaining variance requests.

Board member Wintzer could find no unreasonable hardship to support a variance to allow building a house with greater square footage. The area of Old Town has many small homes and that it isn't unreasonable to build a smaller home. She could not support reduction to parking because the reality was that most home owners have two vehicles and there is no street parking or additional parking spaces along that area of Marsac Avenue. She noted that the owner was aware of the issues with the property when the lot was purchased. The safety of the general public was in question with granting these variances and she felt they were being proposed for the sake of building a larger footprint.

Mr. Gevorgian commented on the danger of the access and called out that he felt the proposed concept mitigates some of the danger of access. A house with the current lot dimensions would be significantly smaller than those within the surrounding area. He would be open to considering movement of the front yard setback and granting more on the side yard.

Discussion ensued amongst staff regarding changes to the conceptual design and different setbacks. It was decided that the north side of the front yard should be set to a minimum of 7 or 8 feet.

Chair Gezelius was concerned about the encumbrances on the lot. She was concerned with the proximity of the house to the street, egress issues, and visibility issues on a busy highway and could not concur with the variance to the front yard to a 5 foot setback. She did agree with the reduction of setbacks on the north side yard setback. She did not agree with the rear yard

setback variance. In this location she felt a garage was necessary, similar to the properties adjacent to the subject lot, Use of the right-of-way as a parking area would be un-enforceable. A two stall garage would be more serviceable in this area and could not agree with a variance to the parking reduction variance.

Board member Miller felt that at this point in time he was not hearing a favorable vote for the front yard, Marsac, setback. He did hear a consensus for a 3 yard setback on the North side yard.

Chair Gezeliuss suggested with the applicants agreement that the Board continue the item so that the applicant could rework the concept based on the Board's comments. Mr. Gevorgian was open to redesigning the concept and of the footprint.

MOTION: Board member Miller moved to continue the Variance request for 488 Marsac Avenue until a date uncertain. Board member Wintzer seconded the motion.

VOTE: 4-0. Motion carries unanimously.

Chair Gezeliuss adjourned the July 16, 2013 Board of Adjustment meeting at 6:50 PM.

Minutes prepared by:

Patricia Abdullah, Planning Analyst



August 28, 2013

Alexis Gevorgian
16633 Ventura Blvd Suite 1014
Encino, CA 91436

NOTICE OF BOARD OF ADJUSTMENT ACTION

Project Description: 488 Marsac Avenue Variance
Project Number: PL-12-01766
Project Address: 488 Marsac Avenue
Date of Final Action: August 27, 2013

Action Taken

On March 27, 2013, the Board of Adjustment reviewed the application for a variance to the north side setback and to the parking for a vacant lot at 488 Marsac Avenue. The Board granted approval of a variance to the north side setback and to the parking requirements in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval as follows:

Findings of Fact

1. The property is located at 488 Marsac Avenue.
2. The property is located within the Historic Residential (HR-1) District.
3. The applicant requested a variance to reduce the north side setback from five (5') feet to one (1') foot.
4. The applicant requested a variance to the requirement to orient tandem parking in parallel and requests to orient the tandem space parallel to the road.
5. The property is a vacant 25' wide by 75' deep standard "old town" platted lot.
6. The property is Lot 16 of the original Park City Survey. The lot contains 1,875 square feet.
7. 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).
8. The same LMC requirements apply to this lot as apply to all lots of this size that are not encumbered by the highway.
9. 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. Without the variances the maximum building footprint

would be approximately 544 sf, which is about 35.5% less than maximum allowed building footprint for a standard “old town” lot.

10. 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.
11. The property adjacent to the north is platted, un-built Fifth Street ROW.
12. 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.
13. There is no increase in allowed building height, building footprint, or building floor area due to the variances.
14. Granting of the variances will not impact use of the Fifth Street ROW for the purpose of a future street, staircase, or utilities. As part of the Conditional Use Permit application to construct a driveway in a portion of the ROW the applicant proposes to enhance the landscaping and create a small public neighborhood garden.
15. Snow shedding may occur onto the City ROW from the future house on the lot. Snow storage areas along Marsac Avenue are typically needed for snow removal.
16. The applicant is requesting these variances to address unreasonable hardships facing this property owner due to the encroachment of the highway, as well as to address safety issues caused by reduced site visibility due to the location, alignment, and volume of traffic on the highway. The curve of the road at this location and the angle at which it crosses the lot creates visibility issues for vehicles backing onto the highway.
17. The property is unique in that it is a corner lot.
18. Granting of the side yard variances allows the applicant similar property rights as other property owners in the district.
19. 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.
20. Granting the parking variance furthers the purposes of the Design Guidelines and is not inconsistent with the pattern of development in historic Park City where many historic homes don't have any on-site parking and where historic homes are not required to have parking, and allows landscaping instead of additional paving in the front yard.
21. Access onto Fifth Street ROW with a private driveway requires approval of a Conditional Use permit by the Planning Commission.
22. A variance allowing an average of a two (2') foot setback, with a minimum of a one (1') foot setback, on the north side allows the applicant the same rights as other property owners in the district with the same size lots and does not impede the City's use of the platted ROW area and is not contrary to the purposes and intent of the Land Management Code.
23. Allowing an average of a two (2') foot north side yard setback, with a minimum setback of one (1') foot, as a variance from the required five foot setback, is not contrary to the purposes of the zoning district or purposes of setback requirements to provide space, light and ventilation between structures because the adjacent property is platted, un-built right-of-way.
24. 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. Allowing a lesser setback along the side property abutting an open right-of-way area is not contrary to the rhythm and scale of separation between side yards in the neighborhood.

25. The requested variance to the parking 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 restricts the area for a tandem parking configuration. Additionally, the width of the lot does not allow a tandem configuration for a side access garage off of Fifth Street, which is encourage by the Design Guidelines when there is an opportunity due to the lot location or configuration of the lot.
26. By granting the variances, as described in the Order below, the spirit of the LMC is observed and substantial justice is done in that the variances allow 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.
27. The findings in the Analysis section are incorporated herein.

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 variances 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 variances 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 § 15-2.2-3 (H) – side setback on the north property line is hereby granted allowing an average two (2') foot setback, with a minimum of one (1') foot, with all exceptions allowed as permitted by the LMC.
2. The variance to LMC § 15-3-3 (I) – parking variance is hereby denied to not allow the tandem space on the property to be parallel to Marsac Avenue.
3. A variance to LMC § 15-3-6 (A) is hereby granted to allow only one parking space on the property due to safety and design concerns with the parallel to Marsac Avenue configuration proposed by the applicant.
4. The variances run with the land.

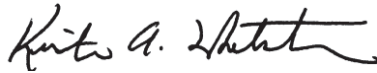
Conditions of Approval

1. A reciprocal snow shed agreement shall be recorded between the City and the applicant allowing for potential snow shedding onto platted, un-built Fifth Street ROW and allowing City snow storage within the front setback areas of the Lot.
2. Compliance with the Design Guidelines for Historic Districts and Historic Sites is a condition precedent to issuance of any building permits on the property.

3. The Historic District Design Review process may require adjustments to the structure that further limit the size of the structure.
4. The granting of any variances for this property does not bind the City Engineer or the Planning Commission regarding approval or disapproval of the use of the Fifth Street Right-of-Way and any encroachment into the Fifth Street Right-of-Way requires a signed and recorded encroachment agreement with the City prior to construction of such encroachments.
5. The applicant agrees to a condition that the garage entry shall be from Marsac Avenue.

If you have any questions or concerns regarding this action letter, please do not hesitate to call me at 435-615-5066 or contact me by email at Kirsten@parkcity.org.

Sincerely,



Kirsten A. Whetstone, MS, AICP
Senior Planner

Cc. File

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

Board of Adjustment Staff Report



Application #: PL-14-02264
Subject: 206 Grant Avenue
Author: Christy Alexander, AICP, Planner II
Date: March 18, 2014
Type of Item: Variance

Summary Recommendations

Staff recommends that the Board of Adjustment 1) review the proposed variance to 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; 2) conduct a public hearing; and 3) consider granting the variance based on the findings of facts and conclusion of law.

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

Description

Applicant: Myke Hughes, property owner; represented by Jonathan DeGray, architect
Location: 206 Grant Avenue
Zoning: Historic Residential (HR-2) District
Adjacent Land Uses: Residential on Swede Alley, Grant Avenue and Sandridge and commercial on Main Street
Reason for Review: Variances require Board of Adjustment approval

Proposal

The property owner of 206 Grant Avenue requests a variance from the required two (2) parking spaces per Single Family Dwelling. The applicant is requesting to be allowed a requirement of only one (1) parking space at 206 Grant Avenue. Due to the hardships imposed by the irregular triangular shape and steepness of the lot as well as the 206 Swede Alley Stairway Easement along the southeastern lot line and a Pedestrian and Vehicular Ingress and Egress Easement along the northern lot line (parking and access for the adjacent property to the north) as well as the Grant Avenue Right-of-Way (ROW) to the west which is directly adjacent to Swede Alley, there are unique circumstances on this site that limit the size of development and prohibit a design that complies with the LMC regarding parking that is also consistent with the surrounding historic sites and new residential infill projects subject to the Historic District Design Guidelines within the Historic Districts. See Exhibits B, C, and D for an existing conditions survey, a site plan, and photographs of the site.

Purpose

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

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

Background

In reviewing the Historic District Design Review (HDDR) application filed on October 15, 2013, staff found that the proposed home and garage design at 206 Grant Avenue did not have two (2) parking spaces on the applicant's property. The lot is irregularly shaped and very steep and is encumbered with a public stairway easement. The applicant decided to keep the square footage of the combined home and single car garage to under 1,000 square feet (which also means no Steep Slope CUP is required), The maximum footprint permitted for a structure on the lot is 993 square feet; however due to the unusual shape and steepness of the lot and public stairway easement, a home with a 993 square feet footprint would not be possible on this lot. The proposed home and garage together total 984 square feet in size. In order to meet the required two (2) parking spaces per single family home, one car would need to be parked in the garage and another in the driveway in front of the garage.

With Swede Alley and Grant Avenue adjacent to one another and the depth of the lot being irregularly short and steep, the driveway portion on the property is not long enough to meet the LMC requirements of a parking spot. If a vehicle was placed on the driveway it would encroach into the Grant Avenue ROW. A vehicle could fit within the Grant Avenue ROW and not stick out into Swede Alley but the LMC requires the parking space to be entirely on the applicant's property. Staff worked with the applicant's architect to see if the home could be redesigned in such a way as to fit two (2) parking spaces. Due to the irregular shape and steepness of the lot and small buildable area allowed for a home due to the public stairway easement, it would be virtually impossible to adhere to the Historic District Design Guidelines if the home was redesigned as such. In working with the applicant, staff determined that the two (2) required parking spaces would create an unreasonable hardship due to the encumbrance of the public stairway easement, unusual shape and steepness of the lot.

On February 21, 2014, the City received an application (PL-14-02264) for the requested variance for the property located at 206 Grant Avenue. The application was deemed complete on February 24, 2014. The HDDR application has been placed on hold to allow the applicant to proceed with the variance application request to waive one (1) of the required two (2) parking spaces per Single Family Dwelling. The applicant is requesting to be allowed a requirement of only one (1) parking space at 206 Grant Avenue. The site is 2,257 square feet, meeting the minimum lot size of 1,875 square feet required in the HR-2 District. The lot is not a typical 25' x 75' rectangular Old Town lot; the lot is a triangular configuration surrounded by the 206 Swede Alley Stairway Easement along the southeastern lot line extending diagonally across the lot; a Pedestrian and Vehicular Ingress and Egress Easement along the northern lot line (parking and access for the adjacent property to the north); as well as the Grant Avenue ROW to the west which is directly adjacent to Swede Alley and cannot be used for a required parking space.

Analysis

The property is located within the HR-2 District and consists of one (1) unusually shaped and steep Old Town lot. The lot is 50.07 feet by 70.45 feet by 15.52 feet by 62.68 feet and sliced diagonally northeast to southwest. The site is currently vacant. The lot does not consist of standard dimensions of 25' by 75' yet contains 2,257 square feet of lot area. The same LMC requirements and standards apply to this lot as apply to all lots of this size in the same district, including those not encumbered by a public stairway easement. The maximum building foot print allowed for a 2,257 square feet lot is 993 square feet. However, the building pad area is much less due to the unusual configuration of the lot, its steepness and encumbrances. The proposed home has a footprint area of only 494 square feet.

The proposed single family home will be located on a steeply sloping hillside on the downhill side of the street. The total building area of the proposed home including the garage (984 square feet total) does not exceed 1,000 square feet and therefore a Steep Slope CUP is not required for construction of the home.

The property is located in the HR-2 zoning district and is subject to the LMC and Historic District Design Guidelines. The LMC requirement that is asked to be waived is LMC § 15-3-6 (A) which requires two (2) parking spaces per Single Family Dwelling. In order to resolve the hardships related to the site constraints of this lot, the applicant is now requesting a variance to require only one (1) parking space for the proposed single family dwelling at 206 Grant Avenue.

The applicant is requesting this variance to address issues related to a hardship created by the encroachment of the public stairway easement into the southern side yard (diagonal portion) of the Lot running northeast to southwest as well as the unusual shape and steepness of the lot.

Due to the encroachment of the public stairway easement, the loss of an additional seven feet (7') along the side of the house for the public stairway easement would create additional hardship on the property owner and result in a loss of approximately 438.76 square feet of the side yard or nineteen percent (19%) of the total area of the lot, 2,257 square feet. Granting this variance is essential to the enjoyment of the substantial property right possessed by other property owners in the same zone.

At this time, the applicant is proposing to construct a two (2) story home, with the garage on the first floor, of approximately 984 square feet in total. Staff finds the design is consistent with the Historic District Design Guidelines. The building and site design will respect the existing topography and the exterior elements of the new development—roofs, entrances, eaves, porches, windows and doors, and garage—are of human scale and are compatible with neighboring historic sites and the neighborhood. Furthermore, the scale and height of the new structure follows the predominant pattern of the neighborhood, while respecting existing historic sites. Except for the requirement of two (2) parking spaces, the proposed home meets all of the LMC requirements.

LMC Review Criteria for a Variance

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

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under the BOA may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood. In determining whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.

The small, unusually shaped and steep lot is also encumbered by a public stairway easement that benefits the City and allows public access from Swede Alley to Sandridge. This easement and unusual shape and steepness of the lot reduces the usable depth of the lot to a point that makes adding a second parking space of 9'x18' entirely on the applicant's property virtually impossible. There would be area for a second parking space in front of the garage; however it would extend into the Grant Avenue ROW and not be located entirely on the lot as required by the code. The home is small in size due to the unusual shape and steepness of the lot. The small size of the home (being that of a studio where no bedrooms are present) does not create a parking demand that is typical of single family homes. One (1) parking space is enough for the studio home. Should the applicant need additional residential parking in the future, Parking Services offers up to two (2) residential parking permits (per dwelling within the historic districts along Swede Alley, Grant Avenue, Main Street and Park Avenue) in the China Bridge structure.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.

The property is an unusual triangular shape and very steep differing from the typical 25x75 lot shapes found in the HR-1 and HR-2 zones. The small lot is encumbered by a public stairway easement that benefits the City and allows public access from Swede Alley to Sandridge. These special circumstances relate to the hardship of providing two (2) parking spaces and these special circumstances generally do not apply to other Properties in the same zone.

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

Granting of the variance allows the applicant the same substantial Property right as possessed by other property owners in the same zone. Other similar small dwellings along Marsac Avenue, Swede Alley and Grant Avenue, such as the adjacent property to the north (see photos attached hereto as Exhibit D), do not provide two (2) parking spaces. Granting the variance will allow for a home to be built that meets all other LMC requirements and Historic District Design Guidelines as other homes along Swede Alley and Grant Avenue, adjacent to this property, possess.

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

All aspects of the proposed home are in compliance with the LMC and the Historic District Design Guidelines. The requested reduction from two (2) off street parking spaces to one (1) off street parking space for a home that contains only 744 sq. ft. of livable space will not substantially affect the General Plan and will not be contrary to the

public interest. The parking variance is consistent with the General Plan that promotes less reliance on the automobile. The lot is located in close proximity to China Bridge parking, Main Street and the transit center further reducing the need for two (2) on-site parking spaces. There would be area for a second parking space in front of the garage; however it would not be located on the lot as required by the code.

Criteria 5. The spirit of the LMC is observed and substantial justice done.

The variance as proposed will not conflict with the spirit of the LMC. All other aspects of the proposed home are in compliance with the LMC and the Historic District Design Guidelines. The requested reduction from two (2) off street parking spaces to one (1) off street parking space for a home that contains only 744 square feet of livable space will not affect the public interest in any way and is appropriate based on the encumbrance caused by the public stairway easement and unusual shape and steepness of the lot. Substantial justice will be done by granting the variance.

Future Process

Approval of this variance by the Board of Adjustment constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13. Approval of a Historic District Design Review or “HDDR” for the design of the home is necessary prior to the issuance of a Building Permit.

Standards for new construction as listed within the Historic District Design Guidelines will apply. HDDR’s are an administrative approval and are processed by the Planning Staff. A steep slope Conditional Use Permit is not required because the home and garage combined does not exceed 1,000 square feet in area. Staff review of a Building Permit is not publicly noticed unless appealed. The approval of this variance request by the Board of Adjustment constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13.

Department Review

The application was taken to the Planning Director, City Engineer, and City Attorney for additional interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice of the variance request was mailed to property owners within 300 feet of the property in accordance with requirements of the LMC. Legal notice was published in the Park Record according to requirements of the Code.

Public Input

No public input has been provided at the time of this report.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The property owner could not build the proposed home on his property and the land would remain vacant.

Recommendation

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

Findings of Fact (for Staff's Recommendation)

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 (for approval)

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 (for approval)

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.

Exhibits

Exhibit A – Plat

Exhibit B – Existing Conditions Survey

Exhibit C – Site Plan, Floor Plans, Elevations, Building Section, Landscape Plan

Exhibit D – Photos of Property

Exhibit E – Applicant's justification statement for variance request

SURVEYOR'S CERTIFICATE

I, JOHN W. FRANCOM, CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO. 1504713, AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH. I HAVE PERSONALLY EXAMINED THE SURVEY PLAT OF THE 206 GRANT REPLAT AND THAT THE SAME HAS BEEN OR WILL BE MONUMENTED ON THE GROUND AS SHOWN ON THIS PLAT. I FURTHER CERTIFY THAT THE INFORMATION ON THIS PLAT IS ACCURATE.

DATE: October 23, 2013
 JOHN W. FRANCOM, P.L.S. #1504713

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER OF THE HEREIN DESCRIBED TRACT OF LAND, TO BE KNOWN HEREAFTER AS 206 GRANT REPLAT, AND I, MICHAEL R. HUGHES, AS TRUSTEE OF THE MICHAEL R. HUGHES TRUST, DATED SURVEY 72, 2006, DO HEREBY CONSENT TO THE RECORDATION OF THIS RECORD OF REDEMPTION AND TO THE REDEMPTION OF THE SAID TRACT OF LAND, AND TO THE USE, EASEMENTS, RIGHTS, AND REQUIRED UTILITIES AND CASUALTIES SHOWN ON THE PLAT IN ACCORDANCE WITH AN IRREVOCABLE OFFER OF DEDICATION.

IN WITNESS WHEREOF, THE UNDERSIGNED SET THEIR HANDS THIS 28th DAY OF October, 2013.

MICHAEL R. HUGHES TRUST, DATED MARCH 22, 2006
Michael R. Hughes, Trustee
 MICHAEL R. HUGHES, TRUSTEE

ACKNOWLEDGMENT

STATE OF Utah COUNTY OF Summit
 ON THIS 28th DAY OF October, 2013, MICHAEL R. HUGHES, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID STATE AND COUNTY, MICHAEL R. HUGHES, TRUSTEE OF THE MICHAEL R. HUGHES TRUST, DATED MARCH 22, 2006, AND THAT HE HAS SIGNED THE ABOVE OWNER'S DEDICATION AND CONSENT TO RECORD REDEMPTION VOLUNTARILY.

Michael Hughes
 A NOTARY PUBLIC COMMISSIONED IN Utah
 PRINTED NAME: Michael Hughes
 RESIDING IN: 2800 South Blackhawk Way
 MY COMMISSION EXPIRES: 03/24/17

LEGEND

- FOUND SURVEY MONUMENT
- FOUND REBAR & CAP
- STREET ADDRESS ON SWEDGE ALLEY

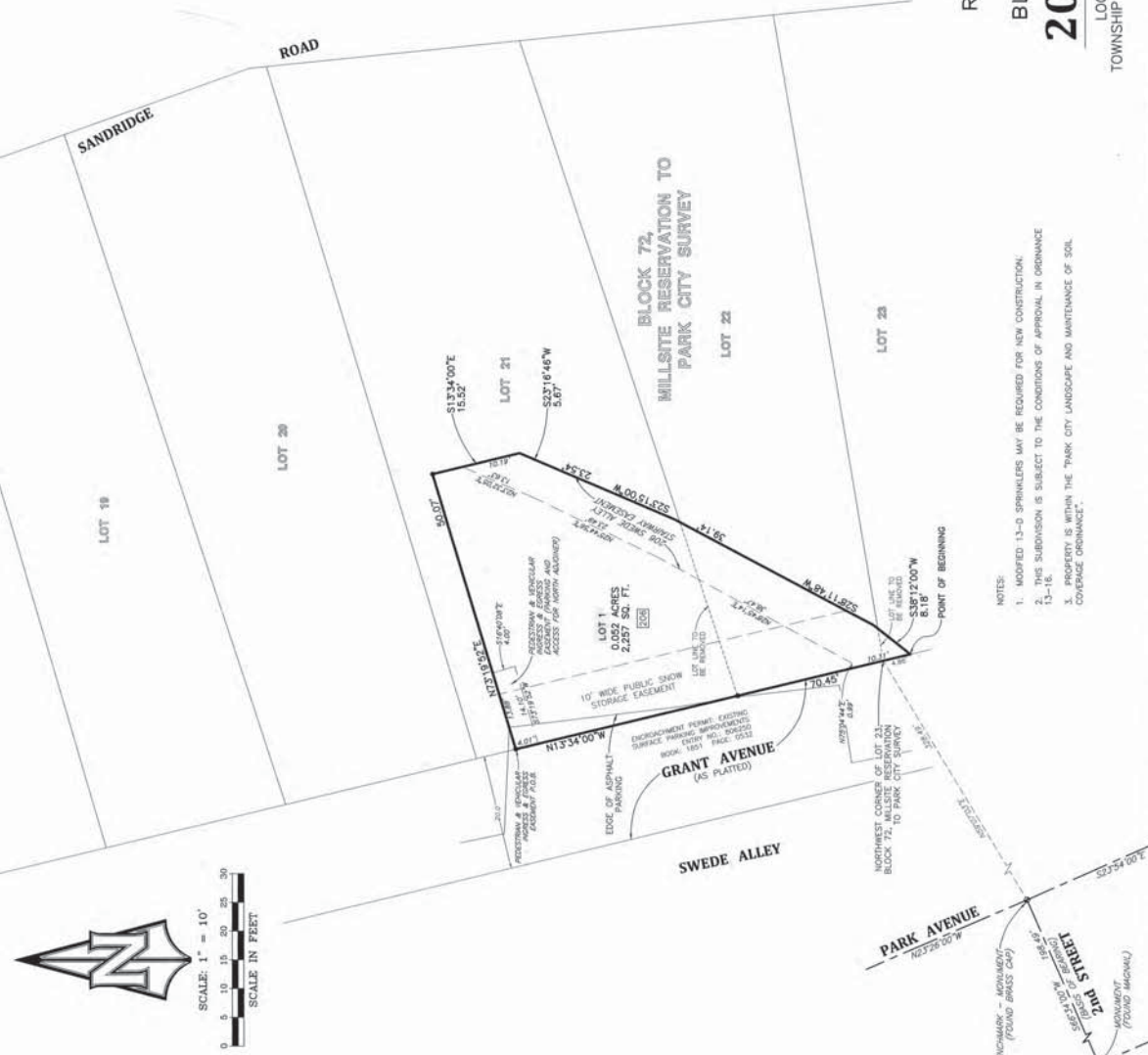
JOHN W. FRANCOM & ASSOCIATES, INC.

BOUNDARY, TOPOGRAPHIC & CONSTRUCTION SURVEYS
 505 SOUTH MAIN STREET, BOONVILLE, UTAH 84010
 865.901.7295-7290 FAX: 865.901.7294
 EMAIL: FRANCOM@FRANCOMSURVEYING.COM

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT

REQUESTED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STAGDADES ON THIS 28th DAY OF October, 2013. A.D.

BY: John W. Francom
 SNYDERVILLE BASIN WATER RECLAMATION DISTRICT



- NOTES:
1. MODIFIED 13-0 SPRINKLERS MAY BE REQUIRED FOR NEW CONSTRUCTION.
 2. THIS SUBDIVISION IS SUBJECT TO THE CONDITIONS OF APPROVAL IN ORDINANCE 13-16.
 3. PROPERTY IS WITHIN THE "PARK CITY LANDSCAPE AND MAINTENANCE OF SOIL COVERAGE ORDINANCE".

RECORD OF SURVEY PLAT OF A LOT COMBINATION BLOCK 72, PARK CITY SURVEY 206 GRANT REPLAT

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16,
 TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
 PARK CITY, SUMMIT COUNTY, UTAH

COUNCIL APPROVAL AND ACCEPTANCE
 I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY THE PARK CITY COUNCIL THIS 30th DAY OF May, 2013. A.D.
 BY: Doreen Williams
 MAYOR

CERTIFICATE OF ATTEST
 I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY THE PARK CITY COUNCIL THIS 20 DAY OF November, 2013. A.D.
 BY: Myrtle Hill
 PARK CITY RECORDER

APPROVAL AS TO FORM
 I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 19th DAY OF November, 2013. A.D.
 BY: John W. Francom
 PARK CITY ENGINEER

ENGINEER'S CERTIFICATE
 I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 19th DAY OF November, 2013. A.D.
 BY: John W. Francom
 PARK CITY ENGINEER

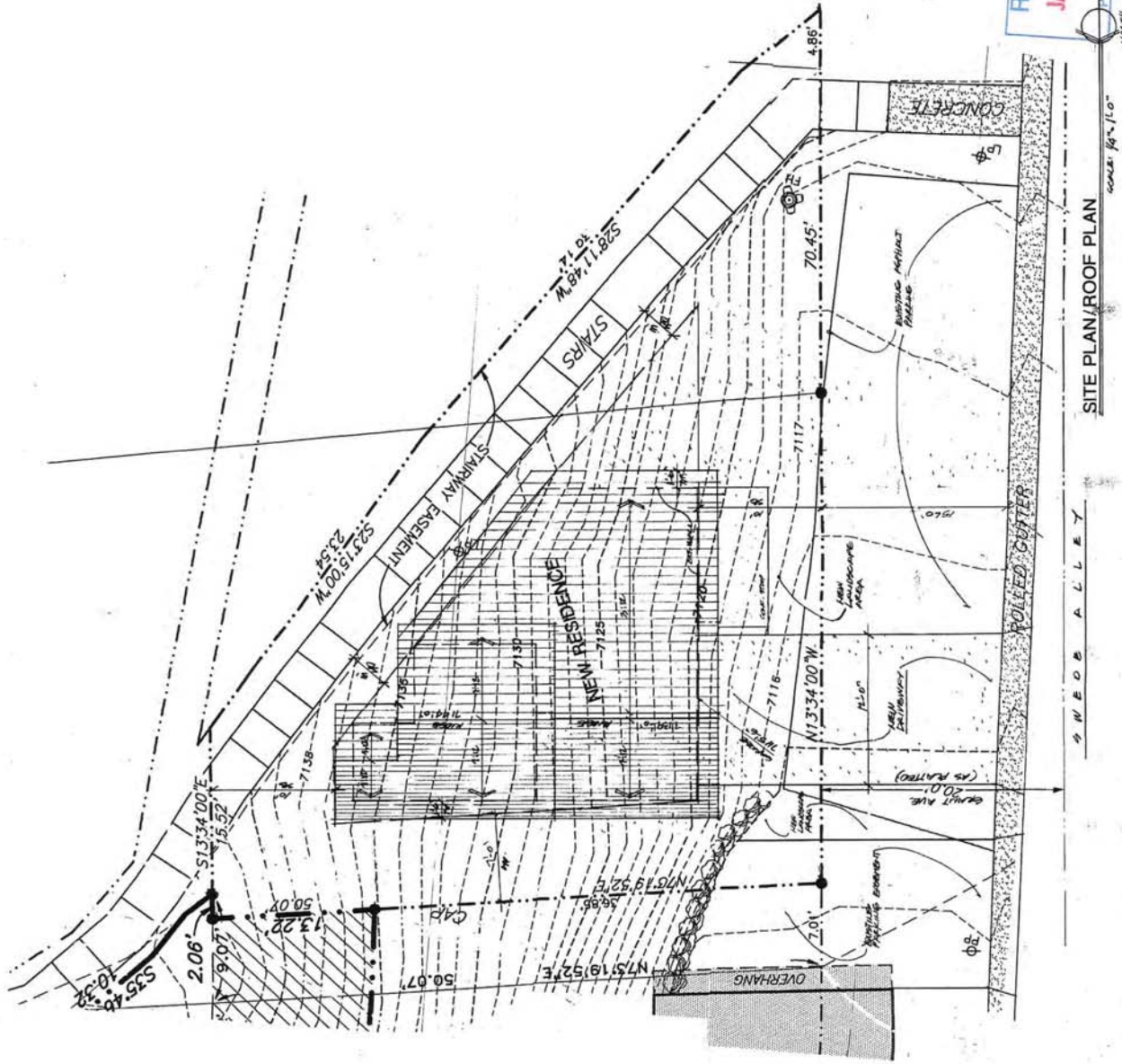
PLANNING COMMISSION
 APPROVED BY THE PARK CITY PLANNING COMMISSION THIS 19th DAY OF November, 2013. A.D.
 BY: John W. Francom
 CHAIRMAN

RECORDED
 STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF Park City Title
 DATE November 28, 2013 BOOK --- PAGE ---
 BY: John W. Francom
 RECORDER

		JOHN W. FRANCOM & ASSOCIATES LAND SURVEYS BOUNDARY, TOPOGRAPHIC, & CONSTRUCTION SURVEYS 305 SOUTH MAIN STREET, SUITE 200, UTAH 84019 (801)734-2500 FAX: (801)734-2505 EMAIL: FRANCOM@NETNETSERVICE.NET (801)734-2524	
		MIKE HUGHES 206 SWEDE ALLEY & 222 SANDRIDGE ROAD PARK CITY, UTAH 84060 LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASIN & MORMON	
REVISIONS:		SURVEYED BY: MEZ/JAS CALCULATED BY: HUE FIELD DATA COLLECTION DATE: 6/5/12 JOB NO: 12-021 DWG: HUGHES-1000	
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EXHIBIT C - PROPOSED SITE PLAN

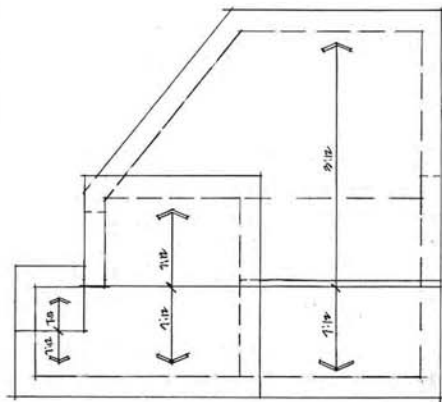
Jonathan DeGray Architect P.O. Box 1074, 814 Main Street, Suite 202, Park City, Utah 84002 Tel: 435-645-1200, Email: jonathan@jonathandeggray.com		206 Grant Avenue, Park City, Utah Hughes Residence		SITE PLAN/ROOF PLAN		#191/ 10-14-13 10-14-13 A-1	
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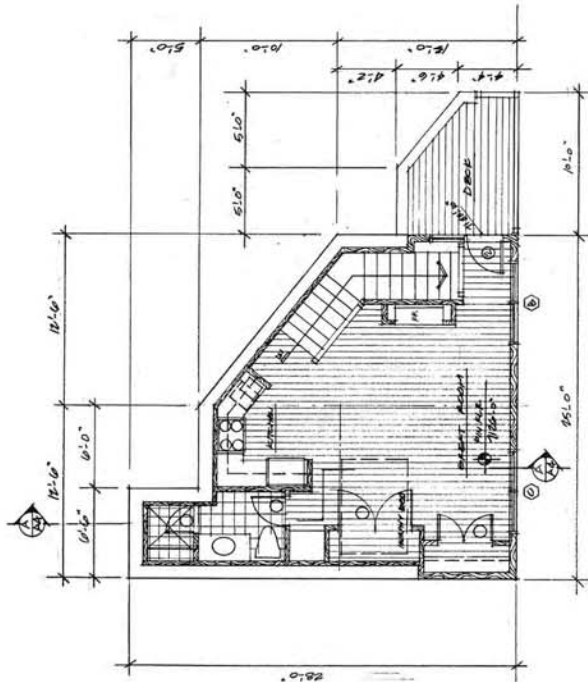
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JAN 16 2014
PARK CITY
PLANNING DEPT

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

SITE PLAN/ROOF PLAN

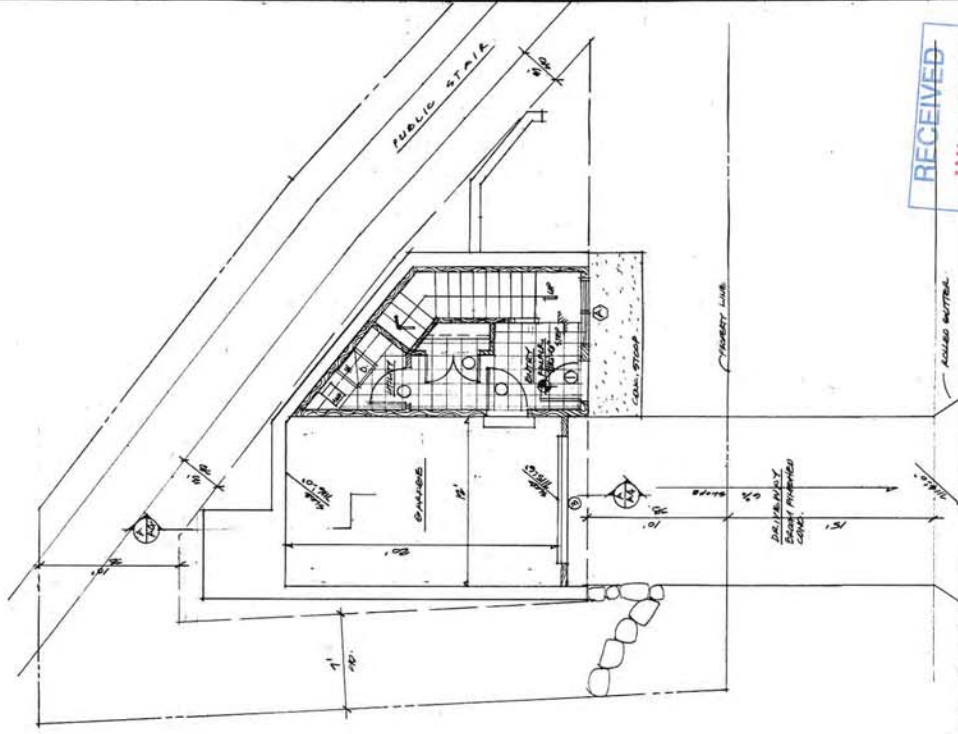


ROOF PLAN
 SCALE: 1/4" = 1'-0"
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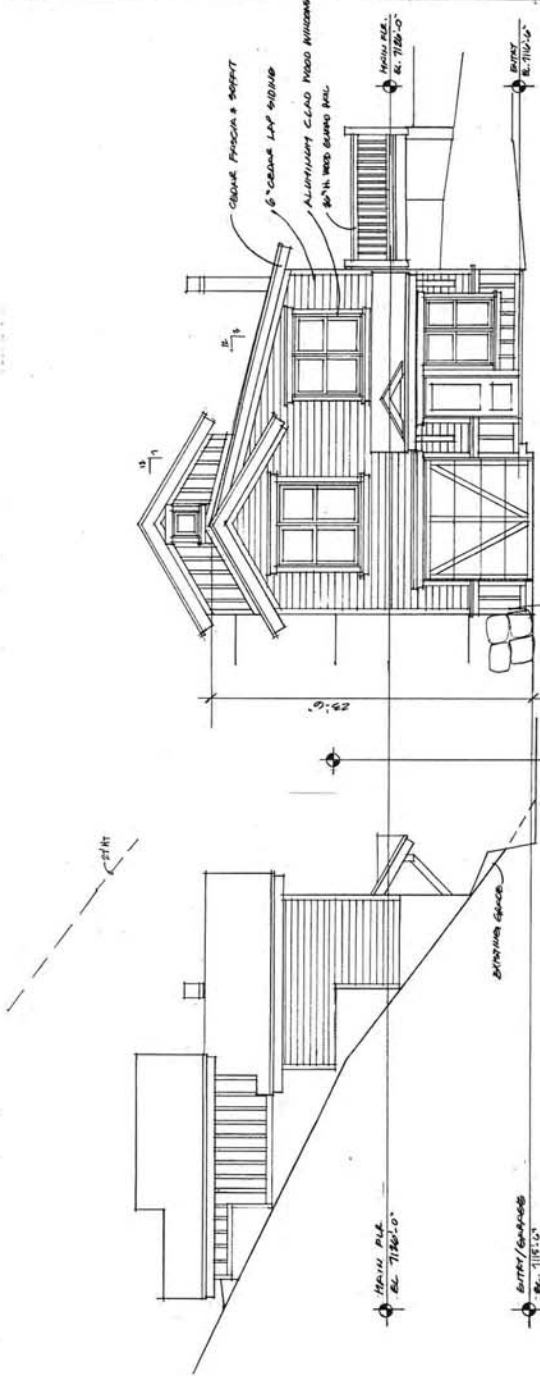
MAIN FLOOR PLAN
 SCALE: 1/4" = 1'-0"
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TOTAL AREA:
 LIVING: 1,100.00
 KITCHEN: 250.00
 BEDROOM: 944.00



ENTRY/GARAGE FLOOR PLAN
 SCALE: 1/4" = 1'-0"
 NORTH

RECEIVED
 JAN 16 2014
 PARK CITY
 PLANNING DEPT.



WEST ELEVATION
SCALE: 1/8\"/>

NORTH ELEVATION
SCALE: 1/8\"/>



ARCHITECTURAL CONSTRUCTION
SHOWN
GRADE, ROOF & BOTT. FINISH



EAST ELEVATION
SCALE: 1/8\"/>

SOUTH ELEVATION
SCALE: 1/8\"/>

FINISH SCHEDULE

[illegible]

WINDOW SCHEDULE

NAME	DATE	TYPE	CLASS	PERIOD
1	5-12-15	CONC. & REPROD	10	1
2	6-1-15 & 2-15		10	2
3	6-1-15 & 2-15		10	3
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DOOR SCHEDULE

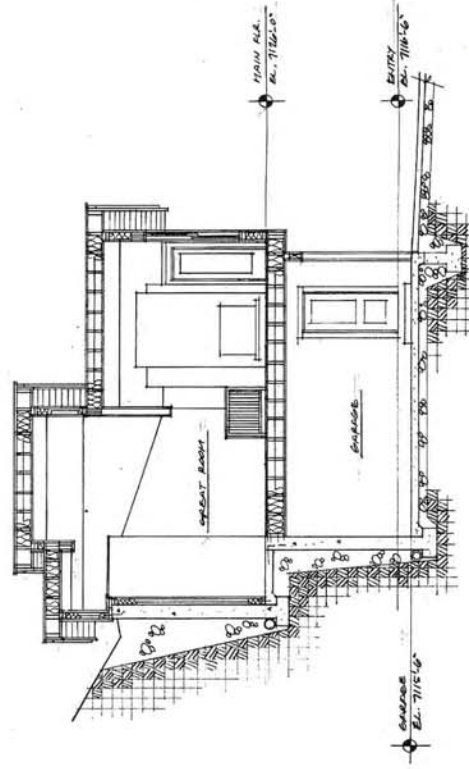
DATE		TIME	LOCATION	REMARKS
①	8-5	11-30	W.D.	Went to 1st UNIT
②	8-5	11-30	W.D.	Went to 2nd UNIT
③	9-5	11-30	W.D.	Went to 3rd UNIT
④	9-5	11-30	W.D.	Went to 4th UNIT

Window Notes:

1. Contractor is to field verify all window openings prior to fabrication and installation of window units.
2. Minimum window performance to equal $U = 0.25$.
3. Re: elevations for operable sash location.

2

- Door Notes:**
1. Contractor is to field verify all rough openings prior to fabrication and installation.
 2. All terrace doors to be tempered glass.



CEIVED

JAN 16 2014

BUILDING SECTION

SCALE: 1/4" = 170'

A
A4

Board of Adjustment - March 18, 2014

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[illegible]

PLANTING NOTES

The contributors are listed below with the numbers of all columns they have contributed to this section. The numbers in parentheses indicate the number of columns in each article. The numbers in brackets indicate the number of columns in each article that were reprinted from other sources. The numbers in the last column indicate the number of columns in each article that were reprinted from other sources.

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19** **20** **21** **22** **23** **24** **25** **26** **27** **28** **29** **30** **31** **32** **33** **34** **35** **36** **37** **38** **39** **40** **41** **42** **43** **44** **45** **46** **47** **48** **49** **50** **51** **52** **53** **54** **55** **56** **57** **58** **59** **60** **61** **62** **63** **64** **65** **66** **67** **68** **69** **70** **71** **72** **73** **74** **75** **76** **77** **78** **79** **80** **81** **82** **83** **84** **85** **86** **87** **88** **89** **90** **91** **92** **93** **94** **95** **96** **97** **98** **99** **100** **101** **102** **103** **104** **105** **106** **107** **108** **109** **110** **111** **112** **113** **114** **115** **116** **117** **118** **119** **120** **121** **122** **123** **124** **125** **126** **127** **128** **129** **130** **131** **132** **133** **134** **135** **136** **137** **138** **139** **140** **141** **142** **143** **144** **145** **146** **147** **148** **149** **150** **151** **152** **153** **154** **155** **156** **157** **158** **159** **160** **161** **162** **163** **164** **165** **166** **167** **168** **169** **170** **171** **172** **173** **174** **175** **176** **177** **178** **179** **180** **181** **182** **183** **184** **185** **186** **187** **188** **189** **190** **191** **192** **193** **194** **195** **196** **197** **198** **199** **200** **201** **202** **203** **204** **205** **206** **207** **208** **209** **210** **211** **212** **213** **214** **215** **216** **217** **218** **219** **220** **221** **222** **223** **224** **225** **226** **227** **228** **229** **230** **231** **232** **233** **234** **235** **236** **237** **238** **239** **240** **241** **242** **243** **244** **245** **246** **247** **248** **249** **250** **251** **252** **253** **254** **255** **256** **257** **258** **259** **260** **261** **262** **263** **264** **265** **266** **267** **268** **269** **270** **271** **272** **273** **274** **275** **276** **277** **278** **279** **280** **281** **282** **283** **284** **285** **286** **287** **288** **289** **290** **291** **292** **293** **294** **295** **296** **297** **298** **299** **300** **301** **302** **303** **304** **305** **306** **307** **308** **309** **310** **311** **312** **313** **314** **315** **316** **317** **318** **319** **320** **321** **322** **323** **324** **325** **326** **327** **328** **329** **330** **331** **332** **333** **334** **335** **336** **337** **338** **339** **340** **341** **342** **343** **344** **345** **346** **347** **348** **349** **350** **351** **352** **353** **354** **355** **356** **357** **358** **359** **360** **361** **362** **363** **364** **365** **366** **367** **368** **369** **370** **371** **372** **373** **374** **375** **376** **377** **378** **379** **380** **381** **382** **383** **384** **385** **386** **387** **388** **389** **390** **391** **392** **393** **394** **395** **396** **397** **398** **399** **400** **401** **402** **403** **404** **405** **406** **407** **408** **409** **410** **411** **412** **413** **414** **415** **416** **417** **418** **419** **420** **421** **422** **423** **424** **425** **426** **427** **428** **429** **430** **431** **432** **433** **434** **435** **436** **437** **438** **439** **440** **441** **442** **443** **444** **445** **446** **447** **448** **449** **450** **451** **452** **453** **454** **455** **456** **457** <

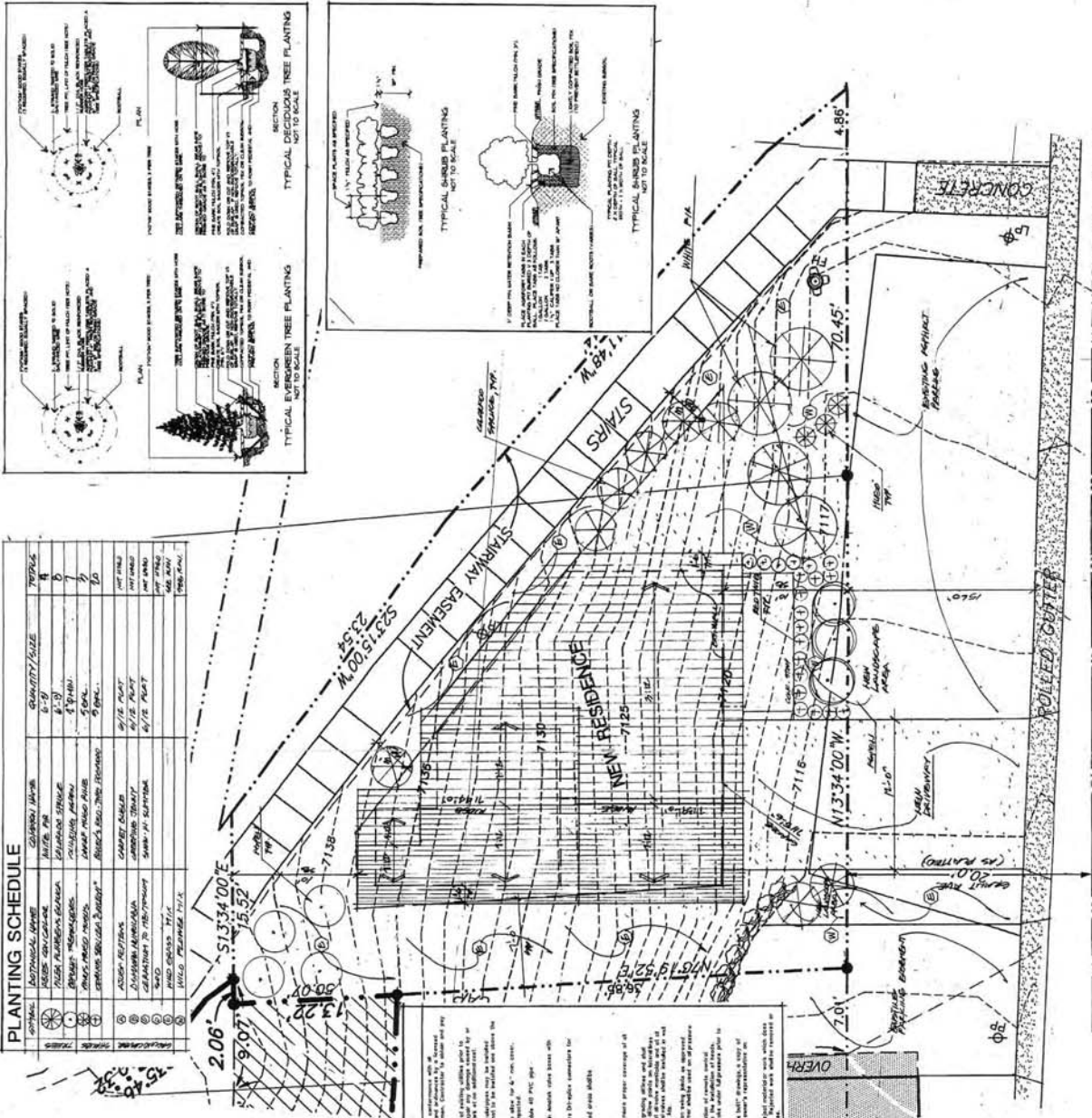
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2/1/24	2/1/24	2/1/24			

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NOTE: PAVING PLAN SHOWS APPROXIMATE LOCATIONS OF PAVING MATERIAL AND IS SUBJECT TO MINOR MODIFICATIONS AT TIME OF INSTALLATION.

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Jonathan DeGray
Architect
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Tel: 435-643-7283, E-mail: degrayj@comcast.net

Hughes Residence
206 Grant Avenue, Park City, Utah

LANDSCAPE PLAN

1/5.14
1/29.14

LANDSCAPE PLAN

SECRET

ADJACENT PROPERTY TO SOUTH

**EXHIBIT D - SITE
PHOTOS**

10/14/2013



**SOUTH
EDGE
SITE**

10/14/2013



SITE

206 GRANT AVE

10/14/2013



SITE

10/14/2013



VIEW LOOKING NORTH

10/14/2013



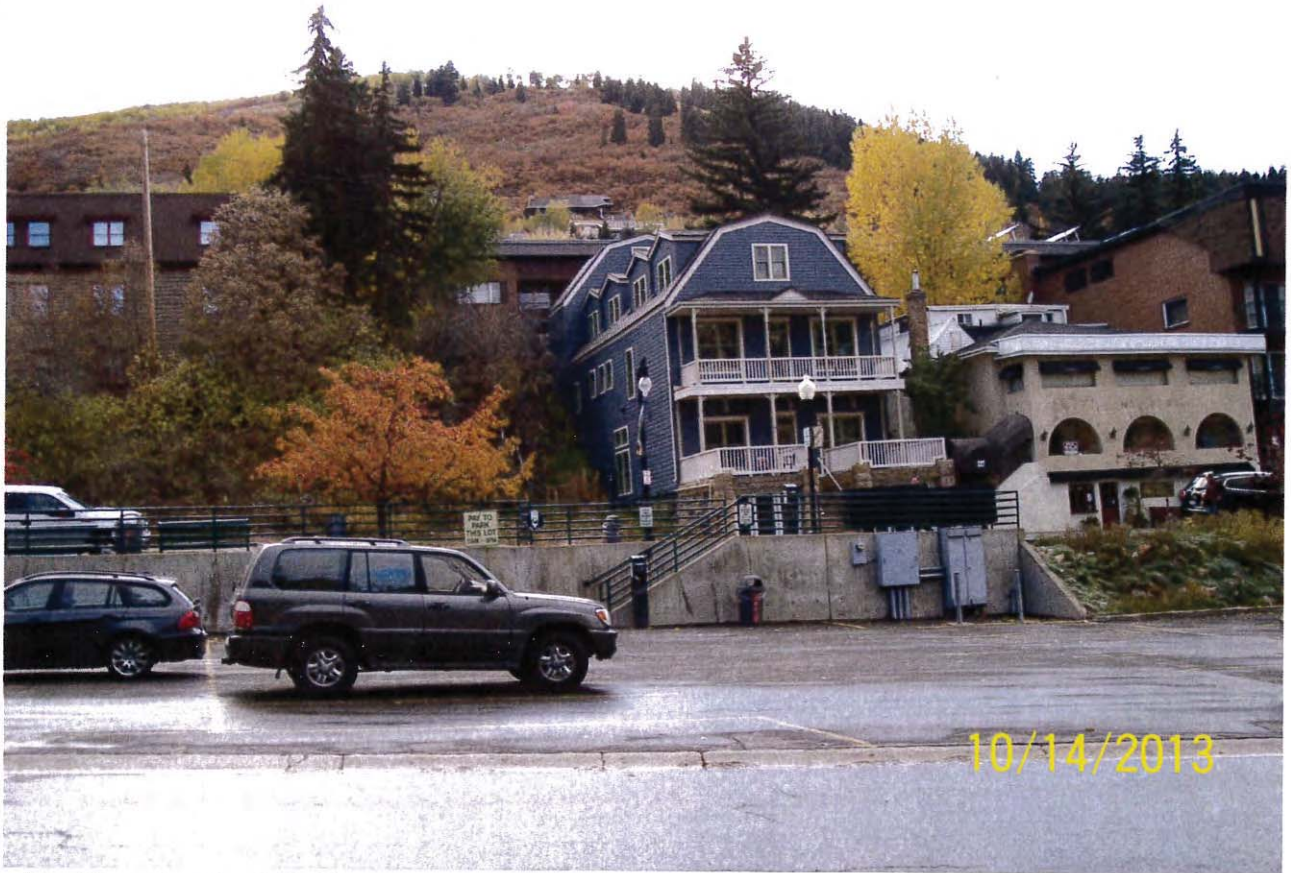
FROM SITE LOOKING NORTH

10/14/2013



FROM SITE LOOKING WEST

10/14/2013



FROM SITE LOOKING WEST

10/14/2013



FROM SITE LOOKING WEST

FROM SITE LOOKING SOUTH

10/14/2013



10/14/2013



Board of Adjustment - March 18, 2014

FROM SITE LOOKING SOUTH

10/14/2013



**FROM SITE LOOKING UP SITE TO
EAST**

OCT 15 2013

February 21, 2014

Christy J. Alexander, AICP, Planner II
Park City Planning Department
445 Marsac Ave
P.O. Box 1480
Park City, UT 84060-1480

Re: 206 Grant Avenue
Request for variance to omit second parking space requirement

Dear Christy,

Myke Hughes, the owner of 206 Grant Avenue, would like to build a small home on the site. The home would have 744 sq. ft. of living space and a 240 sq. ft. single car garage. 206 Grant is an unusually shaped lot that is encumbered by an easement granted to the city which contains a public stair from Swede Alley to Sand Ridge.

Due to the small scale of the home, shape of the lot, steep grade and the stair easement it is difficult to place a second vehicle on the lot and preserve a street level entry similar to other homes along this stretch of Swede Alley. Because of these factors we are asking to be allowed to omit the second parking space. We believe that a second parking space will not be necessary due to small size of the building living area and will allow for greater landscaping opportunities on the site.

Per section 15-10-9 of the Land Management Code we feel the variance should be granted because:

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.
The small lot is encumbered by an easement that benefits the city and allows public access from Swede Alley to Sand Ridge. This easement reduces the usable depth of the lot to a point that makes adding a second parking space of 9'x18' difficult. The small size of the home does not require two parking spaces.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
The property is an unusual shape differing from the typical 25x75 lot shapes found in the HR-1 and HR-2 zones. The small lot is encumbered by an easement that benefits the city and allows public access from Swede Alley to Sand Ridge.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
In order to provide a second parking space the front entry will need to be moved to the second level and accessed via an outdoor stair. This is due to the reduced depth caused by the public

stair easement. Granting the variance will allow for a conventional street level entry, as other homes along Swede Ally adjacent to this property possess.

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

All aspects of the proposed home are in compliance with the LMC and the Design Guidelines. The requested reduction from two off street parking spaces to one off street parking space in a home that contains only 744 sq. ft. will not affect the public interest in any way.

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

All aspects of the proposed home are in compliance with the LMC and the Design Guidelines. The requested reduction from two off street parking spaces to one off street parking space in a home that contains only 744 sq. ft. will not affect the public interest in any way and is appropriate based on the encumbrance caused by the public stair easement.

If you have any questions regarding this variance request please do not hesitate to contact me.

Sincerely,

Jonathan DeGray - Architect