



**PARK CITY BOARD OF ADJUSTMENT MEETING
SUMMIT COUNTY, UTAH
January 26, 2021**

PUBLIC NOTICE IS HEREBY GIVEN that the Board Of Adjustment of Park City, Utah will hold its Board of Adjustment Meeting at the City Council Chambers, 445 Marsac Avenue, Park City, Utah 84060 for the purposes and at the times as described below on Tuesday, January 26, 2021.

NOTICE OF ELECTRONIC MEETING & HOW TO COMMENT VIRTUALLY:

This meeting will be an electronic meeting without an anchor location as permitted by Utah Code Open and Public Meetings Act section 52-4-207(4) as amended June 18, 2020, and Park City Resolution 18-2020, adopted March 19, 2020. The written determination of a substantial health and safety risk, required by Utah Code section 52-4-207(4) is attached as Exhibit A. Board of Adjustment members will connect electronically. Public comments will be accepted virtually as described below.

To comment virtually, raise your hand on Zoom. Written comments submitted before or during the meeting will be entered into the public record, but not read aloud. For more information on participating virtually and to listen live, please go to www.parkcity.org/public-meetings.

Exhibit A: Determination of Substantial Health and Safety Risk

The Board of Adjustment Chair has determined that conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. Utah Code section 52-4-207(4) requires this determination and the facts upon which it is based, which include:

- Statewide COVID cases and hospitalizations remain high;
- Based on metrics established by the statewide COVID-9 Transmission Index, Summit County moved to the High Risk designation on October 22, 2020; and
- Park City is a resort community continually hosting visitors from areas which may be experiencing rapid COVID-19 spread.

This determination is valid for 30 days, and is set to expire on February 26, 2021.

Dated: January 26, 2021

MEETING CALLED TO ORDER AT 5:00 PM.

1.ROLL CALL

2.MINUTES APPROVAL

- 2.A. Consideration to Approve the Board of Adjustment Meeting Minutes from February 11, 2020 and December 15, 2020.
[BOA 02.11.2020_Pending Approval](#)
[BOA 12.15.2020_Pending Approval](#)

3.PUBLIC COMMUNICATIONS

4.STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

5.REGULAR AGENDA

- 5.A. 1128 Park Avenue - Appeal of the Historic Preservation Board Determination - Remand of the Material Deconstruction of the Landmark Historic Site Consisting of Removal of Historic Material for the Proposed Restoration of the circ. 1909 Historic Footprint.
(A) Affirmation of Remand to February 3, 2021 Historic Preservation Board Meeting
[1128 Park Avenue Staff Report](#)
[Exhibit A: November 18, 2020 Historic Preservation Board Final Action Letter](#)

6.ADJOURN

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Planning Department at 435-615-5060 or planning@parkcity.org at least 24 hours prior to the meeting.

***Parking validations will be provided for meeting attendees that park in the China Bridge parking structure.**

PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
MINUTES OF FEBRUARY 11, 2020

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Hans Fuegi, Jennifer Franklin, Stefanie Wilson (Alternate)

EX OFFICIO: Director Bruce Erickson; Planner Hannah Tyler; Jody Burnett, Outside Counsel; Jessica Nelson

ROLL CALL

Chair Gezelius called the meeting to order at 5:00 p.m. and noted that all Board Members were present except Dave Robinson and Mary Wintzer, who were excused.

ADOPTION OF MINUTES

January 21, 2020

Jennifer Franklin referred to page 7, second to the last paragraph, and changed “Mr. Lee was prepared to who the Board why the setback...” to correctly read, “**show** the Board...”. Ms. Franklin referred to page 11, third paragraph from the bottom, second sentence, and changed “She noted that for many of these lots different lots were in effect” to correctly read, “different **laws** were in effect.” The following sentence was changed to add the word “if” to correctly read, “The comment about providing more open space was not relevant even **if** it was true”.

MOTION: Board Member Franklin moved to APPROVE the Minutes of January 21, 2020 as corrected. Board Member Wilson seconded the motion.

VOTE: The motion passed unanimously.

Ms. Franklin referred to page 5 of the Staff report, Item 5, which read, “The Board of Adjustment found the Appellant’s attorney’s presentation compelling with respect to lack of necessity. She thought that was an unnecessary sentence because it was covered earlier in the report.

Director Erickson suggested that the discuss issues related to the Staff report during the regular portion of the agenda.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

Director Erickson reported that Jody Burnett was retiring and that this would be the last meeting Mr. Burnett would be attending.

City Attorney Harrington stated that Jody Burnett has helped the City not only with filling in some of the gaps when needed, but he has also provided good Counsel to several Boards and Commissions and to the City Council over the years. His presence will be missed not only in Park City, but he has been a good friend to many local governments. Mr. Harrington was sorry to see him go.

Chair Gezelius thanked Mr. Harrington for his kind words. She also thanked Mr. Burnett for his quality service of longevity.

REGULAR MEETING – Discussion, Public Hearing and Possible Action

6.A. Ratification of Written Decision for the Appeal of Planning Commission's Approval of the Master Planned Development Setbacks for Woodside Park Phase II.

Planner Hannah Tyler stated that the proposed document was the Written Decision granting the appeal based on the Board of Adjustment discussion on January 21, 2020. She noted that the Staff re-listened to the portion of the meeting audio where the Board was making the findings. The language in Item 5 in the Staff report was taken directly from the audio.

Planner Tyler stated that last Friday Nikki DeForge, counsel for the Appellant, submitted an email with a suggested addition to number 2. The City Housing Team, which is the Applicant, had submitted an email with their opinion on the Appellant's suggestion. Both emails were provided to the Board members.

Planner Tyler reiterated that the language was taken directly from the actual audio and the Staff found that Item 5 as written covers the Findings the Board crafted at the January meeting.

Director Erickson noted that this was the appropriate time for Board Member Franklin to talk about the issue she raised earlier in the meeting regarding Item 5 in the Staff report. Planner Tyler stated that the Board could talk through any requested changes.

Board Member Franklin clarified that she was not at the last meeting and she was reading the Staff report fresh, which is why she corrected typos when the Minutes were approved and did not address content. Reading it from content and not having listened to the entire meeting, she thought the last sentence in Item 5 in the Staff report was a curious sentence. However, she understood it better after hearing more context.

Chair Gezelius suggested that the last sentence might read more accurately if the word “found” was replaced with “concluded”. The revised sentence would read, “The Board of Adjustment concluded that the Appellant’s Attorney’s presentation was compelling with respect to the lack of necessity for the proposed setbacks”.

Board Member Wilson thought “concluded” was clearer because “found” was a little vague. Chair Gezelius agreed that concluded was more definitive.

Planner Tyler commented on the email from the Housing Team providing input on the change proposed by the Appellant’s Attorney, as well as their general disagreement with granting the appeal.

Director Erickson noted that the Appellant has retained their legal right to appeal; however, he did not see that in the letter from the Applicant. Jody Burnett did not believe it was necessary because by definition, the Applicant and the Appellant preserve their right to appeal. Mr. Burnett reminded everyone that the 30-day appeal period begins today once the Board adopts the written decision. Any adversely affected party would have 30 days from today to file an appeal pursuant to both City Code and State statute.

Mr. Burnett clarified that the motion would be to adopt the written decision with any modifications. If the Board chooses to accept the modification to the last sentence of Item 5 as suggested by Chair Gezelius, the sentence should read, “The Board of Adjustment concluded that the Appellant’s Attorney’s presentation was compelling with respect to lack of necessity for the proposed Setbacks”.

MOTION: Board Member Fuegi moved to APPROVE the Written Decision of the Appeal of the Planning Commission’s approval of the Master Planned Development setbacks for Woodside Park Phase 2, including the modification to the last sentence of Item 5, to read “The Board of Adjustment **concluded** that the Appellant’s Attorney’s presentation **was** compelling with respect to lack of necessity for the proposed Setbacks”. Board Member Wilson seconded the motion.

VOTE: The motion passed. Board Member Franklin abstained from the vote since she was not present at the January 21st meeting.

WRITTEN DECISION GRANTING THE APPEAL OF THE MASTER PLANNED DEVELOPMENT SETBACKS PURSUANT TO LMC 15-6-5(C):

1. On October 18, 2019, the City received an application for an Appeal of the Planning Commission’s Approval of the Master Planned Development Setbacks for the Woodside Park Phase II Affordable Housing Project application located at 1330 Empire Avenue, 1302 Norfolk Avenue, 1361 Woodside Avenue, and 1323

Woodside Avenue. This appeal was submitted within 10 days of the Final Action of the Planning Commission.

2. Development may be appealed to the Board of Adjustment at the City Council's request. On June 6, 2019, City Council affirmatively referred the appeal of the Woodside Park Phase II Master Planned Development to the Board of Adjustment.

3. On November 26, 2019 notice was mailed to property owners within 100 feet and the property was posted for the Appeal. Legal notice was also published on the Utah Public Notice Website and Park Record on November 23, 2019 according to requirements of the LMC.

4. On December 9, 2019, the Appellant requested a Continuation. On December 10, 2019, the Board of Adjustment held a public hearing and continued the item to January 21, 2020.

5. At the meeting on January 21, 2020, after conducting a public hearing, the Board of Adjustment determined that the findings of the Planning Commission in reference to LMC 15-6-5(C) MPD Requirements - Setbacks were inadequate to establish that the reduction in Setbacks was necessary to provide architectural interest and variation on the basis that the applicant failed to demonstrate the following: (1) other site design alternatives have been considered; and (2) the perceived design variation is necessary to achieve the proposed unit quantities, unit types, and unit sizes. The Board of Adjustment concluded that the Appellant's Attorney's presentation was compelling with respect to lack of necessity for the proposed Setbacks.

Order:

1. The appeal of Planning Commission's Approval of the Master Planned Development

Setbacks located at 1330 Empire Avenue, 1302 Norfolk Avenue, 1361 Woodside Avenue,

and 1323 Woodside Avenue is Granted with respect to the Planning Commission's decision

regarding the compliance of the proposed project with Master Planned Development

Setbacks pursuant to LMC 15-6-5(C).

Chair Gezelius adjourned the meeting at 5:17 p.m.

Approved by _____

Ruth Gezelius, Chair
Board of Adjustment

PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
MINUTES OF DECEMBER 15, 2020

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Hans Fuegi, Jennifer Franklin, Mary Wintzer, Stefanie Wilson (Alternate)

EX OFFICIO: Mark Harrington, City Attorney; Jessica Nelson; Planning Analyst

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Exhibit A: Determination of Substantial Health and Safety Risk

December 15, 2020 the Board Chairperson determined that conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location.

Utah Code section 52-4-207(4) requires this determination and the facts upon which it is based, which include: • Governor Herbert declared a COVID-19 State of Emergency on November 8, 2020. • Summit County has extended its Emergency Declaration and Public Health Emergency Declaration through January 8, 2021. • Statewide COVID cases and hospitalizations are increasing exponentially.

This determination is valid for 30 days and is set to expire on January 15, 2021.

Dated: December 15, 2020

ROLL CALL

Chair Gezelius called the meeting to order at 5:00 p.m. and noted that all Board Members were present except Dave Robinson who was excused.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

There were no comments or disclosures

WORK SESSION

Open and Public Meetings Act Training 2020

City Attorney Harrington noted that this training is done annually, typically during November and December.

City Attorney Harrington had prepared a film clip that he would forego this evening and present during their first or second meeting in 2021 when he intends to do an ethics refresher, as well as other general rules on how to do appeals and administrative hearings. His intent this evening was to briefly go through the packet materials.

City Attorney Harrington commented on the challenges and advantages of conducting Board and Commission meetings on Zoom. He emphasized that the meetings still need to be done in public. The main principle is defined by convening a quorum, which is three or more members of the Board of Adjustment, to discuss matters within their jurisdiction. Mr. Harrington noted that the other Boards and Commissions have a more difficult time because they need to go back and forth between legislative and administrative rules. He remarked that the BOA is 99% quasi-judicial or administrative hearings, but the rules are almost always more stringent. Mr. Harrington stated that all BOA meeting discussions should take place at an appeal hearing or an administrative hearing on the application before them. There should be no touching base with the neighbors or engaging in a conversation in the post office or grocery store. He would talk more about ex parte communication in next in the training. However, if someone does stop to talk to them about an application or an appeal, the Board member is required to disclose that contact at the next BOA meeting per the Ethics and Due Process Rules.

City Attorney Harrington emphasized that the convening part for open meetings is the most critical. This means when board members run into three or four of their fellow board members at a community event, which is common in a small town, and this rule prohibits three or more board members from sitting at one table or having a backroom discussion on an application before them. Mr. Harrington remarked that the rule does not include social or informal gatherings, so they are not violating the rule if they attend an event together. The violation is when they get together and “convene” to debate something that should occur in Council Chambers or a meeting format.

Mr. Harrington stated that sometimes the Board will have a field trip or site visit and there are rules when those occur. They should minimize substantive discussion outside the public hearing. Mr. Harrington remarked that if the BOA ever wants to have a field trip, they should feel free to request one through the Planning Department.

City Attorney Harrington stated that the gray areas are typically with electronic or informal communications. Most are non-substantive, such as emails, meeting schedule confirmations, and other communications from the Staff. He noted that those could quickly escalate to a substantive discussion if three or more Board members begin to talk about the application. He emphasized that they should always treat any discussion as if it were a signed letter on City letterhead going back and forth. If there is an exchange back and forth where they debate on the merits, it could possibly be construed as convening and having a substantive discussion, especially in an electronic format that equates to real time.

City Attorney Harrington commented on noticing and used this meeting as an example of needing to hold a meeting that was publicly noticed to avoid violating the public meetings act. Mr. Harrington stated that there are minimum noticing requirements and Jessica Nelson with the Planning Department works closely with the Legal Department to make sure those requirements are met. He noted that this was outside the responsibility of the BOA; however, if a board member gets a question regarding noticing, they should contact him or someone in the Legal Department.

City Attorney Harrington spoke about meeting location. He stated that normally the rules require an anchor location and for meetings to be held in the same location, which is usually the Council Chambers, unless it is a site visit. He pointed out that the Board was currently operating under an exception due to the current emergency from the anchor location, which is an electronic meeting that has additional requirements.

City Attorney Harrington stated that electronic meetings are expressly authorized throughout the year and they can be done with different rules. He noted that Park City has avoided electronic meetings for formal hearings for the most part at the direction of the Boards, Commissions, and City Council. However, he believed that could be revisited after this pandemic and he would not be surprised to see the opportunity for some version of an electronic meeting to increase and expand post-Covid. Mr. Harrington remarked that for now the Board was operating under State Law that is exclusive to the emergency, which is why they are required to read the Notice of an Electronic Meeting before every meeting and certain additional noticing is required in advance to give the public notice of how to participate and comment. Mr. Harrington stated that they were basically replacing the anchor location with an electronic meeting through the meeting host site. The meeting is both broadcast live and recorded in video. The Board members need to remember that they are on camera and should

conduct themselves properly. They should use the mute button when they are not speaking.

City Attorney Harrington stated that when the Board has a public hearing he will go through the protocol. It has worked well with the City Council and the Planning Commission. It is a raised hand system and Jessica Nelson or another member of the Staff will operate it. The Chairperson will defer to that person to queue up public comment. So far, the public process has worked well. There is also additional opportunity for the public to submit written comments. Mr. Harrington stated that if a large appeal comes before the Board of Adjustment, he will make sure they are comfortable with the system rather than having to learn by fire. He believed that smaller applications would be coming to the BOA in the next month or two, which will give them an opportunity to work through the process.

Board Member Wintzer noted that when Mr. Harrington was talking about emails or communications, he talked about the reply all button. She asked if he said they should hit the reply all or not hit the reply all when responding, and whether it relates to when Jessica Nelson sends an email. Mr. Harrington replied that a Board member would not want to hit reply all if they are making a substantive comment or something having to do with the merits of an application. He stated that sometimes the Staff will ask them to hit reply all on scheduling matters so they can see when everyone is available. They were trying to get more centralized in using one doodle pool; however, some people still have trouble using those. They have not been able to select one scheduling app at this point because between all the different boards and commissions, not everyone uses the same thing. He noted that sometimes the Staff will send emails asking if everyone is available on a specific date and time and asking them to hit reply all so everyone can see their response. Mr. Harrington stated that replying to all in that case is fine because they are only replying to a scheduling matter. It is administrative and not governed by the convening rule or the prohibition of ex parte deliberation.

City Attorney Harrington stated that this software in particular has a chat function, which allows the participants to have a real time text in this program to all the Board members, to all the members and all the participants, or just to one person. Mr. Harrington discourage use of the chat function for anything other than administrative purposes. He provided examples of when using the chat function would be appropriate. He cautioned the Board about having substantive discussion in the chat function. Mr. Harrington stated that Board members should not text each other during a meeting or take phone calls. Electronic communication between Board members is prohibited during the meeting. They should also try to minimize any third-party communication.

City Attorney Harrington stated that debate and discussion among the Board members can be more difficult electronically, and it is incumbent on the Chair to

make sure everyone has the opportunity to make their comments before calling for a decision or a vote.

City Attorney Harrington stated that the meeting minutes remain the same. The Minutes will be circulated and adopted at the subsequent meeting as they would be during an in-person meeting.

City Attorney Harrington reiterated that Zoom meetings are recorded. He noted that City Council meetings are reposted on the Park City Facebook page and other streaming outlets; however, he did not believe the BOA meetings would be reposted. Ms. Harrington stated that the BOA and other Boards and Commissions typically do not go into closed sessions. It is primarily limited to certain reasons that fall under the City Council and are usually matters of litigation. However, when the BOA is in an appellate process, they have the ability to debate in closed session on a certain type of appeal. Mr. Harrington stated that it is technically allowed but discouraged. He asked the Board members to give him advance notice if it ever comes up as a desired option to make sure they are properly prepared. Mr. Harrington pointed out that it is a challenge to go into closed session during the electronic meeting because of the current format with Zoom and Granicus. Currently, with electronic meetings a closed session is scheduled either before or after a meeting.

City Attorney Harrington stated that he always ends his training with violations as a reminder. He does not enforce violations. Any violations are enforced by the Attorney General and the County Attorney. A private citizen can also bring a private suit to enforce it. Mr. Harrington emphasized that a violation is not an administrative rule.

Chair Gezelius asked if there was a date certain for the next Board of Adjustment meeting. Mr. Harrington believed there was an application pending but it was still undecided. Jessica Nelson stated that it was discussed at the Staff meeting earlier in the day and she believed it would be forthcoming. Ms. Nelson noted that IT would be making some upgrades to the equipment in Council Chambers. The third week in February is the only week it can be done between all the meeting. The BOA will not have a meeting in February unless it is necessary, such as a time limit on an appeal. If that occurs, they will need to discuss moving the regularly scheduled date. At this point, she anticipated a BOA meeting on January 19th. She would email the Board members once that date is confirmed.

Chair Gezelius adjourned the meeting at 5:36 p.m.

Approved by _____
Ruth Gezelius, Chair
Board of Adjustment

Board of Adjustment Staff Report

Subject: 1128 Park Avenue Material Deconstruction
Author: Caitlyn Barhorst, Historic Preservation Planner
Project Number: PL-20-04727
Date: January 26, 2021
Type of Item: Appeal of the Historic Preservation Board Action

Summary Recommendation

Staff recommends the Board of Adjustment affirm the proposed Stipulated Remand of the Material Deconstruction to the Historic Preservation Board on February 3, 2021.

Acronyms

BOA Board of Adjustment
HPB Historic Preservation Board
LMC Land Management Code

Terms that are capitalized as proper nouns throughout this staff report are defined in [LMC § 15-15-1](#).

Background

On July 27, 2020, the Planning Department received a complete Historic District Design Review application for 1128 Park Avenue, a Landmark Site as designated on the Park City Historic Sites Inventory. Per [LMC § 15-11-12.5](#) the applicant was proposing the Material Deconstruction of the Landmark Historic Site consisting of removal of a Historic addition for the proposed Restoration.

The following is the timeline of the HPB meetings and Site Visits with links to relevant staff reports and meeting minutes.

- September 2, 2020. [Agenda](#), [Staff Report](#), [Minutes](#). Item continued to October 6, 2020 with request for interior demolition and a site visit by HPB.
- September 16, 2020 Site Visit.
- October 6, 2020. Applicant and Planning Department Staff and Planning Director met with the applicant at the applicant's request. The proposal was updated verbally by the applicant and presented as such to HPB but not updated in the Staff Report published with the packet.
- October 7, 2020. [Agenda](#), [Staff Report](#), [Minutes](#). Item continued to November 4, 2020 with request for additional interior demolition and an additional site visit by HPB.
- November 3, 2020 Site Visit.
- November 4, 2020. [Agenda](#), [Staff Report](#), [Minutes](#). The HPB reviewed 3 proposals (#1, 2A, and 2B). Board member Hodgkins moved to Deny Proposal 1, the motion passed 4-3.
- November 18, 2020 HPB issued the written determination of the November 4, 2020 motion.

Appeal

On December 18, 2020, the Planning Department received an application for an appeal of the November 18, 2020 Historic Preservation Board decision for the Material Deconstruction at 1128 Park Avenue. The appeal was received within 30 days of the written action issued by HPB.

Remand

Upon presentation of new information and additional historical records researched by staff, new facts are available which have bearing upon the HPB determination. Accordingly, the parties (Planning Department and appellant) agree to remand the item back to HPB to review the additional information. The applicant will retain their right to appeal back to the BOA.

Exhibits

Exhibit A: November 18, 2020 Historic Preservation Board Final Action Letter



**HISTORIC PRESERVATION BOARD
PARK CITY, SUMMIT COUNTY, UTAH**

RE: MATERIAL DECONSTRUCTION DETERMINATION

The Historic Preservation Board of Park City, Utah met on Wednesday, November 4, 2020 for a duly noticed meeting. After determining that a quorum was present, the Board conducted its scheduled business.

NOTICE OF HISTORIC PRESERVATION BOARD ACTION

Project Address: 1128 Park Avenue
Project Number: PL-20-04484
Type of Item: Administrative – Material Deconstruction
Hearing Date: November 4, 2020

Board Action: **DENIED** – The Historic Preservation Board conducted a public hearing and found that the proposed Material Deconstruction of the Landmark Historic Site at 1128 Park Avenue does not comply with the criteria in the Land Management Code, as outlined in the following Findings of Fact and Conclusions of Law.

Findings of Fact

1. The property is located at 1128 Park Avenue.
2. The Legal Description is All Lot 8 & S 1/2 Lot 9 BLK 56 Snyder's Addition to Park City. Parcel Number SA-365. This Lot is part of the Double H Plat Amendment approved by Ordinance 2019-28. Upon recordation of the plat, the legal description and parcel number with Summit County will be updated to reflect the change.
3. The property is located in the Historic Residential- Medium Density (HRM) Zoning District.
4. The property at 1128 Park Avenue is designated as Landmark on the Park City Historic Sites Inventory.
5. On July 27, 2020 the Planning Department received a complete Historic District Design Review application.
6. Staff published notice on the City's website and the Utah Public Notice website, and posted notice on the property on August 17, 2020. Staff mailed courtesy notice to property owners within 100 feet on August 19, 2020. The *Park Record* published notice on August 19, 2020.
7. For the September 16, 2020 site visit, staff published notice on the City's website and posted notice on the property on September 15, 2020. The *Park Record* published notice on September 12, 2020. For the November 3, 2020 site visit, staff published notice on the City's website, and posted notice on the property on October 30, 2020. The *Park Record* published notice on October 31, 2020.

8. The Historic Single-Family Dwelling was constructed circ. 1895.
9. The Minimum Lot Area for a Single Family Dwelling is 1,875 square feet. This Lot contains 2,812.50 square feet.
10. The applicant has submitted a Conditional Use Permit (CUP) application (PL-20-04607) that is currently under review per LMC 15-2.4-6 Existing Historic Structures. The request is to construct a basement addition beneath the existing historic structure's footprint that currently does not meet setbacks. This CUP application was approved by the Planning Commission on September 23, 2020.
11. The proposed addition complies with the required Front and Rear Setbacks. The minimum Front and Rear Setbacks are ten feet (10') each; the Applicant is proposing a ten foot (10') Rear Setback for the addition.
12. The proposal complies with the Side Setbacks. The south Side Setback is five feet (5') and the north Setback is five feet (5') with the Conditional Use Permit application to approve the construction of the basement addition within the Setback.
13. The proposal complies with LMC 15-2.4-7, with a maximum height of twenty-seven feet (27') from Existing Grade. The maximum height of the proposed structure is 27 feet (27'). Per LMC 15-2.4-5(A) Any proposed building height exceptions will be reviewed by the Planning Director. No proposed building height exceptions are approved with this action letter.
14. On September 2, 2020, the Historic Preservation Board approved the Material Deconstruction for the Landmark Historic Site consisting of removal of the Historic foundation including lifting the existing floor elevation by two feet (2') for the construction of a basement. The applicant proposed to lift the Historic Structure from its existing USGS elevation of 6925' - 8 1/2" to a new elevation of 6927' - 8 1/2" in order to accommodate the new basement foundation.
15. Per LMC [§ 15-11-12.5\(A\)\(2\)](#) Historic Preservation Board Review for Material Deconstruction The Historic Preservation Board shall review the Removal of Historic Material to Accommodate New additions, New Construction, or Structural Upgrades. Prior to issuance of a Building Permit for any Material Deconstruction work, the Review Authority shall review the proposed plans for compliance with the Land Management Code 15-13 Design Guidelines For Historic Districts and Historic Sites.
16. The proposed Material Deconstruction of the Historic shed addition has been reviewed for compliance with LMC [§ 15-13-2](#) Design Guidelines for Historic Residential Sites, including the following applicable Design Guidelines:
 - A. Universal Guidelines:**
 1. A site should be used as it was historically or be given a new use that requires minimal change to the distinctive materials and features.
 - *Does not comply; the applicant proposes to remove the Historic shed addition, a distinctive feature.*
 2. Changes to a site or building that have acquired historic significance in their own right should be retained and preserved.
 - *Does not comply; the applicant proposes to remove the Historic shed addition, a change to a building that has acquired historic significance in its own right.*
 3. The historic exterior features of a building should be retained and preserved.
 - *Does not comply; the applicant proposes to remove the Historic shed addition, a historic exterior feature.*

4. Distinctive materials, components, finishes, and examples of craftsmanship should be retained and preserved.
 - *Does not comply; the applicant proposes to remove the Historic shed addition, a distinctive component to the Landmark Historic Site.*
5. Deteriorated or damaged historic features and elements should be repaired rather than replaced.
 - *Complies; per the submitted Historic Preservation Plan, the applicant proposes to repair rather than replace all deteriorated or damaged historic features and elements.*
6. Features that do not contribute to the significance of the site or building and exist prior to the adoption of these guidelines, such as incompatible windows, aluminum soffits, or iron porch supports or railings, may be maintained; however, if it is proposed they be changed, those features must be brought into compliance with these guidelines.
 - *Not applicable; the applicant does not propose to maintain any features that do not contribute to the significance of the building.*
7. Each site should be recognized as a physical record of its time, place and use. Owners are discouraged from introducing architectural elements or details that visually modify or alter the original building design when no evidence of such elements or details exists.
 - *Complies; the applicant has not proposed to introduce architectural elements or details.*
8. Chemical or physical treatments, if appropriate, should be undertaken using recognized preservation methods. Treatments that cause damage to historic materials should not be used. Treatments that sustain and protect, but do not alter appearance, are encouraged.
 - *Complies; the applicant is not proposing to use any treatments that cause known damage to historic materials.*
9. New construction such as new additions, exterior alterations, repairs, upgrades, etc., should not destroy historic materials, features, and spatial relationships that characterize the historic site or historic building. New construction should be differentiated from the historic structure while also maintaining compatibility with the historic structure in materials, features, size, scale and proportion, and massing to protect the integrity of the historic structure, the historic site, and its environment.
 - *Does not comply; the proposed new construction destroys historic materials, features, and spatial relationships that characterize the historic building by proposing to remove the Historic shed addition.*
10. New additions and related new construction should be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment could be restored.
 - *Complies; the essential form and integrity of the historic property and its environment could be restored if the proposed new construction were to be removed in the future.*

B. Specific Guidelines:

2. Primary Structures

a. Exterior Walls

- (2) Preserve and maintain historic exterior materials including wood siding (drop siding, clapboard, board and batten), frieze boards, cornices, moldings, shingles, etc., as well as stone and masonry. Repair deteriorated or damaged

historic exterior materials using recognized preservation methods appropriate to the specific material.

- *Complies; The applicant proposes to preserve, maintain, and repair the historic exterior materials.*

4. Additions to Primary Structures

a. Protection for Historic Structures and Sites

(1) Additions to historic buildings should be considered only when it is demonstrated that the new use of the building cannot be accommodated by solely altering interior spaces.

- *Complies; the applicant desires to construct an addition to achieve additional square footage that cannot be accommodated by solely altering interior spaces.*

(2) Additions to historic structures shall be considered with caution and shall be considered only on non-character defining facades, usually tertiary and occasionally secondary facades. Additions shall not compromise the architectural character of historic structures. Additions to the primary façades of historic structures are inappropriate.

- *Does not comply; the addition is proposed to be located on the tertiary façade, however the removal of the Historic shed addition compromises the architectural character of the historic structure by removing a contributing Historic feature.*

(3) Additions should be visually subordinate to historic buildings when viewed from the primary public right-of-way.

- *The Administrative Staff Review of the Historic District Design Review will confirm compliance with this Design Guideline.*

(4) Additions to historic structures shall not be placed so as to obscure, detract from, or modify historic roof forms.

- *Does not comply; the proposed Transitional Element of the addition entirely removes the roof form of the Historic shed addition.*

(5) Additions to historic structures shall not contribute significantly to the removal or loss of historic material.

- *Does not comply; Based on the submitted information by the applicant, significant loss of historic material is proposed with the removal of the Historic shed addition.*

(6) Where the new addition abuts the historic building, a clear transitional element between the old and the new should be designed and constructed. Minor additions, such as bay windows or dormers do not require a transitional element.

- *Does not comply; the Transitional Element does not comply with the specific guidelines (below) regarding Transitional Elements.*

(7) Maintain and preserve additions to structures that are significant to the era/period of restoration.

- *Does not comply; Based on the submitted information by the applicant, the Historic shed addition contributes to the Historic Integrity of the Landmark Historic Site.*

(8) In-line additions shall be avoided.

- *Complies; the proposed addition is not in-line with the Historic Structure.*

b. Transitional Elements

1. In-line additions should be avoided and generally are not appropriate.
 - *Complies; the proposed addition is not in-line with the Historic Structure.*
2. A transitional A transitional element shall be required for any addition to a historic structure where the footprint of the addition is 50% or greater than the footprint of the historic structure. The historic structure's footprint may include additions to the historic structure made within the historic period that have gained historic significance in their own right.
 - *Does not comply; the proposal removes an addition to the historic structure made within the historic period that has gained historic significance in its own right.*
3. When an addition to a historic structure is less than 50% of the historic structure's footprint but exceeds the height of the historic structure due to either the greater height of the addition, site topography (e.g., an uphill addition), or both, a transitional element shall be required.
 - *Not applicable; the addition is greater than 50%.*
4. On a rear addition, the width of the transitional element shall not exceed two-thirds (2/3) the width of the elevation to which the transitional element is connected. The transitional element shall be set in from the corners of the affected historic elevation by a minimum of two feet (2').
 - *Complies; the width of the Historic elevation is 25'-2" and the transitional element is 17'-4" and is set in from the corners by a minimum of two feet.*
5. In the case of additions to the secondary façade, visible from the primary public right-of-way, the transitional element shall be setback a minimum of five feet (5') from the primary façade. All other previous guidelines apply.
 - *Not applicable; no additions to the secondary façade are proposed.*
6. The depth of the transitional element (i.e., the distance between the affected historic elevation and the addition) shall be a minimum of one-third (1/3) the length of the least wide historic elevation adjacent to the impacted historic elevation.
 - *Complies; the depth of the transitional element on the south elevation is 5'-6" adjacent to the 14'-2" elevation, and the depth of the transitional element on the north elevation is 9'-0" adjacent to the 25'-2" elevation.*
7. The highest point of the transitional element shall be a minimum of two feet (2') lower than the highest ridgeline of the historic structure.
 - *Complies; the highest point of the transitional element is a minimum of two feet lower than the highest ridgeline of the historic structure.*
8. Balconies and decks may be attached to the secondary facades of a transitional element; however, no roof deck is permitted on the transitional element.
 - *Not applicable; no balcony or roof deck is proposed on the transitional*

element.

9. When an existing non-historic or non-contributory addition is used as a transitional element, the preceding guidelines for transitional elements shall not apply.

- *Not applicable; the applicant is not proposing to use a non-historic or non-contributory addition as the transitional element.*

17. The Design Review Committee, Development Review Committee, and Planning and Legal Departments reviewed this application.

18. Staff did not receive any public input at the time this report was published.

Conclusions of Law

1. The proposal complies with the Land Management Code requirements pursuant to LMC § 15-2.4 Historic Residential Medium Density (HRM) District, including § 15-2.4-1 through § 15-2.4-5 and § 15-2.4-11
2. The does not comply with the Land Management Code requirements pursuant to LMC § 15-2.4-12 Architectural Review.
3. The proposal does not comply with the Land Management Code requirements pursuant to LMC § 15-11-12.5 Historic Preservation Board Review for Material Deconstruction.

If you have any questions, concerns, or comments regarding this letter, please do not hesitate to contact the Project Planner, Caitlyn Barhorst, at (435) 615-5067 or Caitlyn.barhorst@parkcity.org

Regards,



11/18/20

Randy Scott
Historic Preservation Board Chair Pro-Tem

CC: Caitlyn Barhorst, Historic Preservation Planner