

Administrative Action Meeting
April 11, 2024
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PARK CITY MUNICIPAL CORPORATION
ADMINISTRATIVE ACTION MEETING MINUTES
PLANNING DEPARTMENT
April 11, 2024
<https://us02web.zoom.us/j/88167820277>

STAFF:

Rebecca Ward, Planning Director; Caitlyn Tubbs, Senior Historic Preservation Planner; Lillian Zollinger, Planner II (virtual); Spencer Cawley, Planner II; Jacob Klopfenstein, Planning Administrative Assistant

PUBLIC:

Martina Nelson (virtual), Matthew Christensen (virtual)

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The Planning Director called the meeting to order at 12:01 PM.

ROLL CALL

The Planning Director noted that Staff and Members of the Public are in attendance.

REGULAR AGENDA/PUBLIC HEARINGS/POSSIBLE ACTION

327 McHenry Avenue – Modification to Historic District Design Review Approval – PL-23-05981 – The Applicant Proposes a Modification of the Historic District Design Review Approval for 327 McHenry Avenue's Landscaping plan to Include a Swimming Pool, Associated Mechanical Equipment, Retaining Walls, and Plantings.

Planner Tubbs presented the application and noted that the application has come before the Planning Department several times, with this proposal and other modification proposals. She noted that a Historic District Design Review for a new single-family dwelling for the property was approved on August 21, 2021 and the first modification to the landscaping plan for the property was approved on March 2, 2023. She added that the Planning Commission approved a Steep Slope Conditional Use Permit and Conditional Use Permit for a swimming pool at the property on February 28, 2024.

Planner Tubbs said the current proposal is a modification of the approved landscaping plan that includes a swimming pool that is reduced in size. Planner Tubbs noted that the

public hearing for the proposal has already been opened and closed. She presented the staff recommendation to the Planning Director.

Applicant Matthew Christensen asked for clarification on what was being discussed during the meeting. Planning Director Ward confirmed that there were no members of the public wishing to provide input about the project.

Planning Director Ward added it has been a lengthy process to review the proposals associated with this property and make sure they comply with Land Management Code requirements and Steep Slope Conditional Use Permit review criteria, and she appreciates the applicant's patience during the process. She said she found that the current proposal meets the requirements of the Land Management Code in part and does not meet code in part and recommended amending the Final Action Letter to reflect that the proposal is approved in part and denied in part.

Planning Director Ward said the summary of the proposal is that it is a modification to a Historic District Design Review to amend the landscaping plan for the pool. She recommended amending Finding Of Fact #3 to clarify the Lot number of 327 McHenry within the 331 McHenry Subdivision and recommended a clarification to Find Of Fact #4 to say on July 12, 2021, the Planning Department received a Historic District Design Review application for the construction of a new single-family dwelling.

Planning Director Ward also clarified that for Finding Of Fact #9, the Planning Department received an application on January 9, 2023 to modify the Historic District Design Review approval landscaping to accommodate a swimming pool on a steep slope. Planning Director Ward also recommended adding Finding Of Fact #7 noting that the inclusion of the outdoor swimming pool triggered the requirement for a Conditional Use Permit and Steep Slope Conditional Use Permit with review by the Planning Commission, as well as adding that on March 2, 2023, the Planning Director held a public hearing and approved the modified landscaping plan.

Planning Director Ward recommended inserting additional Findings Of Fact to note that the applicant submitted a Conditional Use Permit application on September 20, 2022 for the outdoor swimming pool, and to note that on January 5, 2024 the applicant submitted a Steep Slope Conditional Use Permit to construct an outdoor swimming pool and patio on a steep slope. Planning Director Ward clarified Finding Of Fact #14 to say the Planning Commission approved a Conditional Use Permit and Steep Slope Conditional Use Permit and clarified that the reference to a private recreation facility refers to the outdoor swimming pool at the site.

Planning Director Ward recommended adding to Finding Of Fact #14 that the applicant

is proposing a 1,600-square-foot patio to accommodate the outdoor swimming pool, the outdoor kitchen and outdoor patio area. She also recommended adding that the applicant also proposes a 240-square-foot patio along the rear yard area, and this 240-square-foot patio at the rear of site along the west walls will require additional retaining on the property line and retaining walls within the side setback.

Planning Director Ward also noted that LMC §15-13-8 Design Guidelines for New Residential Infill Construction in Historic Districts, under Subsection A-5, requires that the building and site design shall respect the existing topography, the character-defining site features, including existing trees and vegetation, and shall minimize cut, fill, and the use of retaining walls. She said the additional 240-square-foot patio and the retaining walls required to accommodate that additional patio, which is not necessary for the outdoor swimming pool area, results in changes to the overall grading and slope of the lot. She added that this requires additional disturbance rather than the required Condition of Approval that the natural grade be restored after construction.

Planning Director Ward also discussed Subsection B-1 of LMC §15-13-8 Design Guidelines for New Residential Infill Construction in Historic Districts, which states that the natural topography and original grading of a site shall be maintained when feasible. She noted that the 240-square-foot patio, which is not required for the outdoor swimming pool, results in changes to the overall grade and steep slope that are not necessary for the use of the approved outdoor swimming pool. She added that these changes do not facilitate the restoration of the natural grade or minimize cuts into the steep slope and the hillside or minimize the number of retaining walls.

Planning Director Ward also noted that Subsection B-1 of LMC §15-13-8 Design Guidelines for New Residential Infill Construction in Historic Districts states that when feasible, a site shall be contoured in a way that reduces the need for retaining walls. It also states that when retaining walls are necessary, the visual impact shall be minimized by creating gradual steps or tiers and by using perennial plant material. Planning Director Ward found that the proposed retaining walls are not necessary for the approved outdoor swimming pool.

Planning Director Ward noted that based on the amended Findings of Fact, the application is approved in part and denied in part. She said the 1,600-square-foot patio for the outdoor swimming pool, kitchen, mechanical equipment and living area is approved. She added that the 240-square-foot patio on the western rear is denied in addition to the retaining walls and planting areas that extend beyond the 1,600-square-foot patio.

Planning Director Ward noted that the denial may be appealed to the Board of

Adjustment pursuant to the Land Management Code §15-1-18, and more information on appealing will be provided to the applicant.

Planning Director Ward recommended amending Conclusions of Law #1 and #2 to reflect that the proposed modifications as amended comply with the Land Management Code requirements for the 1,600-square-foot patio and retaining walls, and that the proposed modifications for the 240-square-foot patio and retaining walls do not comply.

Planning Director Ward noted that the Conditions of Approval will be amended to reflect that final plans and construction details shall reflect substantial compliance with the amended Conditions of Approval and Findings of Fact. Planning Director Ward also noted that the Conditions of Approval will be amended to require the applicant to submit updated plans for Planning Department review to confirm compliance with the amended Final Action Letter prior to submitting for a building permit.

MOTION: The Planning Director **APPROVED IN PART AND DENIED IN PART** the Modification to Historic District Design Review Approval for 327 McHenry Avenue in accordance with the amended Findings of Fact, Conclusions of Law, and Conditions of Approval.

Applicant Christensen noted that the most recent plans moved the pool in two feet and asked if there was a possibility to return the pool back to the setback line. He also noted that the underground dashed line detailed in the plan sets may be changed slightly.

Planning Director Ward noted that the Planning Commission already approved the 17.5-foot setback for the pool, and since the approval for the 1,600-square-foot patio was based on that setback, it would not be possible to move the pool back to the setback line. She added that there is some flexibility for the dashed line as long as it stays within the 1,600-square-foot patio.

Applicant Christensen asked if it would be necessary to go back before the Planning Commission in order to move the pool back to the setback line. Planning Director Ward clarified that the Planning Commission only approved the outdoor pool and the Steep Slope Conditional Use Permit for the outdoor facility and did not consider Historic District regulations in LMC §15-13. She said the applicant could ask the Planning Commission to modify the rear setback.

Findings of Fact

1. The Site is located at 327 McHenry Avenue.
2. The Site is located within the Historic Residential Low-Density (HRL) Zoning District.

3. On November 19, 2020, a Plat Amendment creating 331 McHenry Avenue Subdivision – First Amended was approved by City Council. Ordinance No. 20-50 was adopted. A ten-foot (10') public snow storage easement on McHenry Avenue was required to be recorded on the plat. Two existing easements, an encroachment easement recorded August 2, 2010, and a five-foot (5') water line easement recorded June 24, 2009, were also recorded. 327 McHenry Avenue is Lot B of the 331 McHenry Avenue Subdivision.
4. On July 12, 2021, the Planning Department received a Historic District Design Review (HDDR) application for construction of a Single-Family Dwelling at 327 McHenry Avenue; it was deemed complete on July 27, 2021.
5. The HDDR Application for the new Single-Family Dwelling was approved by the Planning Director on August 24, 2021.
6. The Applicant is constructing a new Single-Family Dwelling at the subject property.
7. On September 20, 2022, the Planning Department received a Conditional Use Permit Application for an outdoor Private Recreation Facility (swimming pool) at 327 McHenry Avenue.
8. On January 9, 2023, the Planning Department received an Application to modify the approved landscaping plan to accommodate a swimming pool on a Steep Slope in the rear yard.
9. On March 2, 2023, the Planning Director held a public hearing and approved the modified landscaping plan with findings that the outdoor swimming pool required Conditional Use Permit approval and Steep Slope Conditional Use Permit approval to construct a Private Recreation Facility (swimming pool) on a Steep Slope.
10. On June 29, 2023, the Planning Department received an Application to modify the HDDR approval to accommodate an A/C condenser in the Side Yard and modification of the exterior siding. On August 3, 2023, the Planning Director Designee held a public hearing and approved the modified landscaping plan with conditions.
11. On December 12, 2023, the Planning Department received an Application to modify the HDDR approval to amend the landscaping plan and reduce the size of the proposed swimming pool in the rear yard.
12. On January 5, 2024, the Planning Department received a Steep Slope Conditional Use Permit for the construction of an outdoor swimming pool on a Steep Slope.

13. On February 28, 2024, the Planning Commission approved a Steep Slope Conditional Use Permit and Conditional Use Permit for a Private Recreation Facility (Outdoor Swimming Pool on a Steep Slope) at the Site.
14. On March 21, 2024, the Planning Director held a public hearing, acknowledging receiving written public comments, and continued the item to March 28, 2024, to allow the Applicant time to provide additional information.
15. On March 28, 2024, the Planning Director continued the item to April 11, 2024.
16. Staff reviewed the Applicant's proposed modifications for compliance with LMC Chapter 15-13, *Design Guidelines for Historic Districts and Historic Sites*.
17. Staff reviewed the application per LMC §15-13-8 *Design Guidelines for New Residential Infill Construction in Historic Districts* and LMC Chapter 15-2.1, *Historic Residential Low-Density Zoning District*.
18. Staff published notice on the City's website and at City Hall on March 7, 2024.
19. Staff posted a notice on the property on March 4, 2024.
20. Staff mailed courtesy notice to property owners within 100 feet on March 7, 2024.
21. This Action may be appealed in accordance with LMC § 15-1-18.

Conclusions of Law

1. The proposed modifications comply in part with the Land Management Code requirements pursuant to Chapter 15-2.1, Historic Residential Low-Density (HRL) District.
2. The proposal in part meets the criteria for the *Design Guidelines for New Residential Infill Construction in Historic Districts* outlined in LMC §15-13-8.

Conditions of Approval

1. Final plans and construction details shall reflect substantial compliance with the Conditions of Approval herein and the requirement to remove the westernmost 240-square-foot patio and retaining walls. Permanent disturbance beyond the 1,600-square-foot outdoor patio is prohibited. Any changes, modifications, or deviations from the approved design that have not been approved in writing in advance by the Planning and/or Building Department(s) may result in a stop work order.
2. The Applicant is responsible for submitting updated plans for Planning Review to confirm compliance with this Action prior to submitting for a building permit.
3. Any changes, modifications, or deviations from the approved scope of work shall be submitted in writing for review and approval/denial in accordance with the

applicable standards by the Planning Director, or their designee, prior to construction.

4. The proposed mechanical equipment shall meet all setback requirements set forth in LMC §15-2.1-3 and shall be screened from view.
5. All Conditions of Approval set forth in Ordinance 20-50, the HDDR Final Action Letter dated August 24, 2021, the HDDR Modification Final Action Letter dated March 2, 2023, the Second HDDR Modification Final Action Letter dated August 3, 2023, and the Steep Slope Conditional Use Permit/Conditional Use Permit Final Action Letter dated February 28, 2024 are incorporated herein and shall apply.
6. Final Grade shall be within four vertical feet of Existing Grade.

1294 Rothwell Road – Administrative Conditional Use Permit – PL-24-06041

– The Applicant Proposes to Construct a Retaining Wall Over Six Feet in the Rear and Side Setbacks in the Recreation Commercial Zoning District.

Planning Director Ward noted that the Administrative Conditional Use Permit application and the public hearing would be continued to April 18, 2024.

At 12:19 PM, the Planning Director opened a public hearing. There was no public input.

At 12:20 PM, the Planning Director closed the public hearing.

MOTION: The Planning Director **CONTINUED** the Administrative Conditional Use Permit to April 18, 2024.

The Park City Administrative Action meeting adjourned at 12:20 PM.

Approved by Planning Director:

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes, positioned below the text "Approved by Planning Director:".

