



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
October 13, 2021**

COMMISSIONERS IN ATTENDANCE: John Kenworthy, Sarah Hall, Laura Suesser, Doug Thimm, Bill Johnson

EX OFFICIO: Gretchen Milliken, Planning Director; Julie Schultz, Executive Office Administrator; Rebecca Ward, Assistant Planning Director; Spencer Cawley, City Planner; Makena Hawley, City Planner; Mark Harrington, City Attorney; City Planner, Lillian Lederer

1. ROLL CALL

Chair Suesser called the meeting to order at approximately 5:30 p.m. Chair John Phillips was traveling and was listening to the meeting. Commissioner Van Dine was excused from this meeting.

The following written determination was read:

The Chair issued a written determination that because of the public health emergency, conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may attend in person. This determination is based on the ongoing risks and infection rates statewide and in Summit County. For these reasons, this meeting will be an electronic meeting without an anchor location. Planning Commission members will connect electronically.

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

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from September 8, 2021, September 15, 2021, and September 22, 2021.

MOTION: Commissioner Doug Thimm moved to APPROVE the Meeting Minutes from September 8, 2021. Commissioner Bill Johnson seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

MOTION: Commissioner Doug Thimm moved to APPROVE the Meeting Minutes from September 15, 2021. Commissioner Bill Johnson seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

MOTION: Commissioner Doug Thimm moved to APPROVE the Meeting Minutes from September 22, 2021. Commissioner Bill Johnson seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

3. PUBLIC COMMUNICATIONS

There were no public communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Commissioner Kenworthy reported that he recently wrote an op-ed for *The Park Record* and wanted to make it clear that he was speaking only in his individual capacity. He was not speaking on behalf of any organization or board on which he has been a member or chaired. He added that he made sure that the editor noted this on the online version. He encouraged everyone to use his or her First Amendment rights and be passionate about this election.

Planning Director, Gretchen Milliken, reported that the applicant for 543 Park Avenue (Washington School Inn) requested that the matter be continued to the November 10, 2021, meeting.

5. CONSENT AGENDA

A. 1335 Lowell Avenue – Conditional Use Permit – The Applicant Proposes to Install Shielded Rooftop Antennas to Relieve Telecommunications Capacity Coverage in the Recreation Commercial Zoning District. PL-21-04768

City Planner, Spencer Cawley presented the application for a Conditional Use Permit (“CUP”) for the AT&T New Build Quarry Trigger for 1335 Lowell Avenue. He clarified that this matter was on the Consent Agenda because it does not require a public hearing; however, the Commission has the discretion to allow a public hearing. He explained that the Lowell Condominiums are located at 1335 Lowell Avenue. On March 22, 2017, a CUP was approved for Verizon Wireless to place two rooftop antennas at this location. On February 18, 2021, AT&T submitted an application to establish a new telecommunications facility that would co-exist with the existing antennas.

The item was continued from the June 23 and July 28 Planning Commission meetings. Planner Cawley explained that the concealment was revised due to different antenna mounts that were used inside the rooftop concealment boxes. He explained that the new mounts would allow the antennas to be mounted directly to the concealment boxes, which have a slightly smaller footprint than the original proposal.

Planner Cawley reported that Staff determined that the proposal to establish this wireless Telecommunications Facility complied with the Recreational Commercial (“RC”) zoning lot and site requirements. He explained that the front setback is 20 feet, and the rear setbacks are set at 10 feet. The RC zone requires that mechanical equipment must be screened and located at least

three feet from the rear and side lot lines. He presented a graphic that illustrated the location of the existing Verizon Wireless antenna, the proposed antenna locations, and the property line location.

Planner Cawley explained that the RC zone has a building height limit of 35 feet from existing grade; however, in 2006 the Board of Adjustment approved a 10-foot variance for the Lowell Condominiums. He added that pursuant to the Land Management Code ("LMC"), antennas may extend up to five feet above the highest point of the building. Therefore, since the Lowell Condominiums building is 44 feet high, the antennas would be allowed to extend to 49 feet. The proposed antennas sit at 47'1" and the top of the concealment is 48'1" in height. Planner Cawley presented photographs of proposed antennas from the viewpoint of the right-of-way.

Planner Cawley reported that the proposal meets the standards of the Telecommunication Facilities section of the LMC. He noted that the applicant made efforts to co-locate the equipment with existing antennas and selecting the smaller footprint antenna and concealments mitigated any potential negative impacts. He added that the LMC allows the roof-mounted antenna to extend up to 10 feet above the existing structure when mounted on a flat roof; the zoning standard allows an additional 5 feet. Planner Cawley stated that the proposed antenna does not exceed the additional 5 feet allowed in the RC zone. He explained that the antenna setback is measured from the edge of the roof, and requires a minimum distance equal to, or greater than the height of the antenna; therefore, the minimum setback distance would be 5'2" and the difference between the top of the building and the top of the antenna is 3'11" in height.

Planner Cawley stated that this facility will be an ancillary use to the condominium use. The antenna is associated equipment and was proposed to blend in with the existing structure. He explained that the antenna panels are required to be less than five square feet per face, and they comply with this requirement. He noted that there were no signs proposed with this application. He added that the Lowell Condominium Homeowners Association (HOA) approved the lease of the rooftop and garage storage areas.

Planner Cawley explained that Staff found that the application complied with the conditional use provisions of the LMC, and highlighted the sections that require the following Conditions of Approval ("COA"):

- Physical design and compatibility with surrounding structures (COA Nos. 2, 3).
- Fencing, screening and landscaping (COA No. 4); and
- Signs and lighting (COA No. 7).

He explained that this proposal was reviewed by the Engineering Department; they requested a Condition of Approval (No. 9), which states that the City's Building and Engineering Departments would require the applicant to include a structural calculation for review and approval when they apply for the Building Permit. Planner Cawley noted that the Engineering Department expressed concern that the proposed antennas could add static weight and dynamic loading to the roof that could compromise its' stability. He presented the radio frequency maps for discussion.

Planner Cawley reported that this application was noticed on the City's website and on the property on September 29, 2021. Courtesy mailings were sent to property owners on September 29, 2021, and the Park Record published a notice on that same date. He reported that Staff did not receive any public input. He clarified that the matter was not noticed for public input; however,

the Commission has discretion remove it from the Consent Agenda and open it up for public hearing. Staff recommended the Commission review the request for the CUP for the establishment of a new roof-mounted Telecommunications Facility and consider approving the conditional use based on the Findings of Fact, Conclusions of Law, and Conditions of Approval.

Chair Suesser invited questions or comments from the Commissioners. Commissioner Johnson asked if the proposed antenna matched Verizon's stealthing design. Planner Cawley responded that he did not look at Verizon's stealthing design but understood that the proposed antenna would be smaller than what was approved for Verizon in 2017. Commissioner Johnson referenced page 125 of the Meeting Packet that shows what appears to be a panel configuration versus horizontal slats that presently exist for the Verizon facilities. He expressed that the proposal should match what already exists on the roof.

The applicant's representative, Kara Subleski from Smart Link LLC, confirmed that the concealments would match those for the Verizon antennas as well as the building itself. She added that this was a requirement from the property owner as well.

Commissioner Johnson raised the issue of maintenance of the stealthing and highlighted another property where it was unfinished for a considerable amount of time. He queried whether they could add a Condition of Approval to ensure that the stealthing would be maintained on an annual basis. Planner Cawley agreed that they could add this as a Condition of Approval.

Chair Suesser suggested that based on her review of LMC Section 15-4-14, the first requirement for this type of facility is that the applicant must present documentary evidence regarding the need for the Telecommunications Facilities within the City. She noted that they received information regarding the applicant's coverage areas, however, she would have expected some data showing that what exists is not sufficient, therefore, meeting the requirement that this additional facility was needed.

Planner Cawley explained that Exhibit D to the Staff Report showed the existing and proposed coverage areas. Commissioner Suesser commented that the application simply stated that the facilities were needed rather than demonstrating that they were needed. Planner Cawley submitted that the requirement raised by Chair Suesser was met through Exhibit D, which showed how the new facilities would add to the carrying capacity for the area, specifically at the base of the resort. He offered to have the applicant provide any additional information.

Chair Suesser commented that the justification for the facilities were simply images of where the existing facilities were, whereas the LMC requires a showing that they need the facilities due to coverage or degradation of service in this particular area. Ms. Subleski referenced the propagation maps contained within Exhibit D and explained the slide that showed what coverage these facilities would provide. She echoed the comments of Planner Cawley that this site was working together with other sites in the area to provide better coverage in the immediate area, as well as allow the existing sites to work better for their areas.

Commissioner Johnson commented that Existing Site A was already providing the most coverage to the entire area and was likely reaching capacity quicker. He asked if there was any way that the applicant could provide better information substantiating the need for the facility. Commissioner Johnson added that the Existing Site A was clearly overloaded due to the size of the area it covers but agreed with Chair Suesser's question regarding further information.

In response to an inquiry, Commissioner Johnson stated that the applicant has rarely provided the data substantiating the need for an additional facility. He added that the information contained in the application was sufficient for him. Chair Suesser stated that based on the coverage maps, Commissioner Johnson's experience and the Staff Report, she would find that information reliable.

Commissioner Johnson expressed shock at the lack of propagation on the Alpha sector, as it appears to be focused on the resort and does not appear to cover much north of the site. Ms. Subleski invited the engineer to respond to Commissioner Johnson's concern. He explained that the propagation is due to the limits on the height; the antenna they have proposed would concentrate coverage around the resort where they would have a lot of traffic, especially during peak season. Commissioner Johnson commented that Quarry Mountain was still covering the Existing Site A, which is a vast area, and requested whether AT&T had plans for additional macros between Sites A and B or use small cell infrastructure to cover those areas. The engineer understood that there were plans to install small cells to add more capacity in the area outside of the proposed site. He added that the site on top of Quarry Mountain covered a very large area, and they were splitting sectors to add more capacity, especially the sector near the Park City Resort.

Commissioner Johnson referenced the Zoom In Coverage Map contained in Exhibit D, and asked what would happen if new construction is put in the area noted with a "P" that exceeds the height of the proposed facility. The engineer stated that they would probably require another macro facility to the north if the proposed antenna were blocked; however, it could probably be accomplished with small cell facilities. He added that additional buildings would add traffic to the network and block it from traveling through the buildings.

Chair Suesser sought clarification of the effects of the parking lot, to which Commissioner Johnson replied that the impact would be to the north and east of the proposed facility.

Commissioner Kenworthy asked whether the coverage maps were based on a human number, or how many people they expect to be in this area. The engineer explained that the capacity was usually based on the current traffic on the existing sites. He stated that they have Key Performance Indicators (KPI) that illustrates the AT&T users of each site on a daily basis.

The engineer further explained that they measure Internet data usage through smart phones on a daily basis to determine the congestion of a particular sector or site. He stated that they do not measure congestion in terms of subscribers, but data usage in a given sector.

Chair Suesser inquired whether Staff had discussed with the applicant the proposed development of the base resort and whether the applicant was comfortable moving forward with this facility at this time. Planner Cawley affirmed that he discussed this issue with the applicant. Mr. Subleski expressed that they looked at a number of areas in this vicinity and even with the proposed development; they concluded that this location would still provide a significant offload from the current site on Quarry Mountain. She acknowledged that the proposed development would affect this site, but there were two other sectors that would shoot away from the location of the proposed development so they expect it would still provide coverage to the immediate area and provide relief to the overloaded site. Chair Suesser explained that she would need a motion to move this item from the Consent Agenda to the Regular Agenda to allow further discussion and open the public hearing.

MOTION: Commissioner Doug Thimm moved to move this item from the Consent Agenda to the Regular Agenda. Commissioner Sarah Hall seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.
The 1335 Lowell Avenue Conditional Use Permit was moved to the Regular Agenda and proceeded as follows:

Chair Suesser opened the public hearing. City Attorney, Mark Harrington, requested that Planner Cawley reference an e-mail received on this item.

Planner Cawley stated that they did not receive any public input prior to publishing the Staff Report; after publication of the Staff Report and public notice, they received one public comment that was forwarded to the Planning Commission for their review.

AT&T Project Manager, Jan Robinette, addressed some of the questions raised regarding this project. She reiterated that this would be an offload site, because the site at the top of Quarry Mountain is at maximum capacity. She explained that when a call is dropped, does not connect, or is degraded, a signal is sent to the system letting them know that there is a problem. The engineers then look to ways to help with capacity. She explained that in mountain towns, there are extreme elevation changes and tall buildings that create issues. She reminded that their macro cells are like umbrellas and provide the broad coverage. They are trying to provide additional means for wide coverage that would help handle the capacity.

Ms. Robinette stated that they specifically looked at the new development at the base area, and although Building B would impact one of their sectors, the new facility would still provide a lot of capacity for hand-off. They also have coverage on the other two sectors that would split the difference with the new development. The senior engineers felt that this new site would still benefit the network. She added that because they do not have additional spectrum to continue to build more macro cells in this area, they have small cells. She described small cells as the smaller umbrellas under the larger umbrella that help provide capacity for those on the street.

Ms. Robinette stated that they have been working with Park City in terms of trying to implement different agreements for situations such as Sundance, which creates an extreme number of users. She commented that even in a good season, there was a lot of usage. Because the three major carriers do not work on the same network, when Verizon builds a tower, then AT&T and T-Mobile need their respective towers as well. She stated that with this proposal, AT&T seeks to provide coverage in the area that is lacking by co-locating in the same area with Verizon. They try to do what they can to put carriers with carriers and build like with like.

Chair Suesser closed the public hearing.

Commissioner Johnson noted that the Alpha and Beta sectors might get affected by the new base area development, and they might see another macro application further north in the future. He clarified that a future macro would be an addition, not a replacement, and would be needed.

Chair Suesser wondered why levels of radio frequency ("RF") are not measured or assessed for these applications. Mr. Harrington explained that federal and local government limits the City's ability to regulate environmental impacts of RF as long as the carrier is in compliance with FCC regulations. The Code requires the carriers to remain in compliance.

MOTION: Commissioner Doug Thimm moved to APPROVE the Conditional Use Permit for Establishment of a New Roof-mounted Telecommunications Facility at 1335 Lowell Avenue, based on the following:

Findings of Fact

1. The Applicant proposes installing three sets of enclosed of “stealth” roof-mounted antennas to establish a new Telecommunication Facility at the Lowell Condominiums.
2. 1335 Lowell Avenue is in the Recreation Commercial (RC) District.
3. Telecommunications Antenna are a Conditional Use in the RC Zoning District and require Planning Commission review and approval.
4. The minimum Front Setback for the RC Zoning District is 20 feet.
5. The minimum Rear Setback for the RC Zoning District is 10 feet.
6. The minimum Side Setback for the RC Zoning District is 10 feet.
7. The equipment will sit atop the existing structure and will not encroach into the Setbacks.
8. Antennas may extend up to five feet (5') above the highest point of the Building to comply with International Building Code requirements.
9. Telecommunication Facilities must be Compatible with the unique characteristics of each Zoning District, mitigate adverse impacts on community quality and safety, and locate related equipment where they are least visible from Public Streets, public Areas, and designated view corridors.
10. Roof Mounted Antenna are an ancillary Use.
11. The Lowell Condominium HOA consents to the location of the Roof Mounted Antenna.
12. Conditional use Permits require review pursuant to the criteria outlined in Land Management Code §15-1-10(E).
 - a. Size and Location of Site – No Required Mitigation. The equipment is limited to the rooftop and designated storage areas in condominium limited common space.
 - b. Traffic – No Required Mitigation. The proposed equipment will have no direct impact to traffic.
 - c. Utility Capacity – No Required Mitigation. No undue burden to existing utilities is identified.

- d. Emergency Vehicle Access – No Required Mitigation. On June 15, 2021, the Development Review Committee reviewed this proposal and did not identify any emergency vehicle access concerns.
- e. Parking – No Required Mitigation. Planned storage in garage level 3 is designated limited common ownership on the Plat and no parking will be displaced.
- f. Internal Vehicular and Pedestrian Circulation – No Required Mitigation. The Applicant does not propose any changes.
- g. Fencing, Screening, and Landscaping – Condition of Approval No. 4.
- h. Building Mass, Bulk, and Orientation – No Required Mitigation. The proposed equipment will occupy three (3) leased sectors. Each sector is 143 square feet and contains two (2) antennas, four (4) Remote Radio Heads, one (1) surge suppressor, and one (1) stealth mount.
- i. Open Space – No Required Mitigation. Open Spaces as defined in the LMC excludes Buildings or Structures.
- j. Signs and Lighting - Condition of Approval No. 7.
- k. Physical Design and Compatibility with Surrounding Structures – Conditions of Approval No. 2 and 3.
- l. Noise, Vibration, Odors, Steam, or Other Mechanical Factors – No Required Mitigation. The proposed Use is consistent with adjacent Uses.
- m. Control of Delivery and Service Vehicles, Loading and Unloading Zones, and Screening of Trash and Recycling Pickup Areas – No Required Mitigation. No changes are proposed to this site.
- n. Expected Ownership and Management – No Required Mitigation. All equipment is proposed to occupy limited common ownership areas. On March 3, 2021, the Condominium HOA submitted a letter approving the lease of these areas.
- o. Within and Adjoining Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste, Park City Soils Ordinance, Steep Slopes - No Required Mitigation. This site is not located in any additional Overlay Zones, Environmentally Sensitive Lands, or Park City Soils Ordinances. The proposed Use does not trigger a review of Steep Slopes.
- p. Reviewed for Consistency with the Goals and Objectives of the Park City General Plan – Goal 10: Park City will provide world-class recreation and public infrastructure to host local, regional, national, and international events that further Park City's role as a world-class, multi-seasonal destination resort while maintaining a balance with our sense of community. Implementation Strategy 10.9: Public infrastructure policy

should provide visitors with the Park City experience, including cutting edge technology which exhibits Park City's commitment to the visitor experience and the environment.

Conclusions of Law

1. The application complies with all requirements of the LMC.
2. The Use is compatible with surrounding structures in Use, scale, mass, and circulation.
3. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval

1. The Conditional Use will expire one year from the date of Planning Commission approval unless the Applicant has commenced on the project, or a Building Permit for the Use has been issued.
2. Antenna panels shall be no more than five square feet (5 sq. ft.) in Area per face.
3. The rooftop antenna and all mounting equipment shall be set back ten feet (10') from the roof edge and shall not exceed more than five feet (5') above the roofline.
4. The Roof Mounted Antennas shall be concealed within antenna skids.
5. The antenna skids and cable chases shall be painted to match the structure's exterior façade.
6. All equipment located within the parking garage's approved storage area shall be screened to designate an area of separate Use.
7. Signs shall only be installed near the equipment and storage area as required to alert the public of health and safety concerns. No other signs are approved with this CUP.
8. The Applicant must obtain a Building Permit prior to installing the equipment.
9. The Applicant shall submit roof structural calculations for review and approval by both the Building and Engineering Departments.
10. The Applicant must perform annual maintenance on the stealth panels.

Commissioner Kenworthy seconded the motion.

VOTE: Commissioner Johnson-Aye; Commissioner Hall-Aye; Commissioner Suesser-Aye, Kenworthy-Aye, Commissioner Thimm-Aye. The motion passed unanimously.

6. WORK SESSION

A. 1660 & 1700 Three Kings Drive - Payday Condominiums - Plat Amendment - The Applicant is Requesting to Amend the Existing Plat to Rectify Inconsistencies and Clarify Developable Private Residential Space for Condominium Owners.

City Planner, Makena Hawley, presented the staff report and state that the Payday Condominiums are located in the Residential Development ("RD") zone, along the back nine of Park City Municipal Golf Course. Park City Mountain base is an approximately 15-minute walk away. The property is surrounded by several condominium developments to the south, including Three Kings Condominiums and Silverstar Development. To the north, there are larger lots with single-family homes. Planner Hawley explained that the property was platted and built in 1972, and a Conditional Use Permit was issued to allow it to be built in the former Forest Estate (FE) zone. The condominiums are located on 5.26 acres and house 51 units in 21 buildings, along with 62 parking spaces. She reported that within the FE zone and the Planned Unit Development portions of the 1972 LMC, Payday Condominiums fully complied with the LMC at the time it was built. Currently, the development is located within the RD zone, and is subject to different zoning regulations. She explained that because the condominiums were lawfully constructed, the buildings would be considered "existing, non-complying structures" under the LMC.

Planner Hawley reported that in 2018, an owner proposed an addition to their unit, and the application was flagged because it was outside of the area stated on the plat. After further review, the Planning Department discovered that over the years, the City approved numerous remodels and additions that fell outside the platted private residential areas. Planner Cawley explained that the goals of this plat amendment would be to (1) update the plat to reflect the existing private ownership; and (2) to specify the entire building envelope to limit and create predictable future conversions to allow equity among the Payday neighbors. This second goal would also create a harmonious and homogenous design across the property.

Since the 2018 application, the Planning Department has been in support of the proposed plat amendment as long as the expanded areas were located within the existing building plat. Staff advised the current applicant that a plat amendment should equitably allocate developable space, rectify many existing discrepancies and clearly define where, what and how much could be added to the units. In addition, this plat amendment would also eliminate the need to otherwise amend each unit incrementally and allow for a predictable and transparent process for remodels and additions.

Planner Hawley added that the plat amendment would acknowledge and fix the existing error on the current Payday plat that includes a portion of Three Kings Drive. She explained that this is a complex plat that has been extensively reviewed by the Planning Department. She reported that the Planning Director preliminarily determined that the changes do not constitute an expansion of the degree of non-conformity. She explained that this Work Session would allow the Planning Commission to review Staff's analysis prior to bringing it before the Commission as an Action Item. Because the Planning Commission is charged with issuing a separate finding of "good cause" and LMC compliance, Staff and the Applicant jointly requested to bring this before the Commission to assess Staff's recommendations.

Planner Hawley indicated that due to the change in zone and the 49 years of change that this development has seen, there are several areas of non-conformity in density, setbacks, height and parking. With respect to density, Planner Hawley stated that the current maximum density in the

RD zone is three units per acre, and five units per acre of a Master Planned Development ("MPD"). She noted that Payday is not an MPD, and current average density is 9.1 units per acre.

Planner Hawley stated that because the applicant has not proposed to increase the total number of units, Staff found no increase in this non-conformity; therefore, they determined that this complied. She reported that with regard to setbacks, several units were already within the setback area for the RD zone. When the development was originally approved, the Planning Commission simply reviewed dimensions and locations of buildings and structures on the site. She noted that as no additional units were proposed to be expanded further into the setbacks, and because any current expansion would be subject to current setback regulations, Staff found no increase in the non-conformity.

With respect to height, she noted the interesting design of the triplex buildings. She observed that they all have the same layout and size, but the middle unit has a raised a level to allow for additional light. She explained that there is a stairwell on the ground level that goes up to what is the first floor for the middle unit. She noted that this configuration has served as a significant barrier to allow for equitable dispersion of assets to the Payday community. As the height would be increased, and the changes improve the design and mitigate perceived heights, Staff found substantial compliance. Planner Hawley referenced the 3-D drawings contained in the Staff Report that show the proposed addition. The Applicant also provided realistic renderings.

Planner Hawley next addressed parking and noted that the original plat required 51 spaces for 51 units. Over time, the development added spaces to bring it to a total of 72 parking spots. She explained that the current parking threshold for multi-unit dwellings over 2,000 square feet is two parking spaces per unit. She noted that the surrounding area is dense with amenities, including three bus stops within a five-minute walk of this development. There are also hiking and biking trails, a restaurant and ski lift. Additionally, the RD zone includes intentions for growth capabilities, clustering of residential units, and minimizing impacts of the automobile on architectural design.

She also reported that the applicant reported that parking has never been an issue and no additional parking would be necessary, as the use and the density were not increasing. Planner Hawley stated that with no Unit Equivalents ("UE") being proposed, the history of parking, and with the proposal in keeping with the RD zone purpose statements, Staff found no reason to require an increase the amount of parking. She summarized her presentation by stating that they have worked with the Applicant to find a suitable solution to correct the changes over the past 49 years. This proposal would be an improvement in the design and would create equity among the Payday community while increasing livability. Without the increase in UE's, the Planning Director would be inclined to determine that the proposed plat amendment would be in substantial compliance. She was interested to hear to the Commission's feedback regarding the amendments.

Planner Hawley introduced the applicant and President of the Payday Board, Susan Philipp, Property Manager Eric Runions, Payday's Counsel Robert Rosing, and Spencer Swalberg, AIA. In response to a question from Commissioner Kenworthy, Planner Hawley stated that if the proposed changes were approved, all units were already non-conforming. Commissioner Kenworthy wondered whether there would be any egregious examples of a non-conforming unit that would remain outside of this proposed amendment.

Planner Hawley responded that there were a few units with additions that would not necessarily be included in the available new space that could be enclosed. The number is minimal, and she

explained that Staff decided that it would be too much to include those in this application. This application sought to create a holistic design that improves the entire property, rather than impacting the more extreme additions.

Commissioner Kenworthy clarified that this proposed amendment seeks to be equitable to the owners who have not expanded their units, but the issue remains that there are a few owners who have gone beyond the “reasonable area.” He questioned how they would address potential applications that seek more extreme additions. Mr. Harrington commented that the proposed CC&Rs would clarify that only these proposed changes would be allowed in the future. He noted that internal additions have occurred in virtually any condominium project in the City and recognized that this was more a product of changes in law and building standards over the past 50 years.

Mr. Harrington emphasized that the degree of the compliance that this proposed amendment would achieve far outweighed the equitable solution. While the equitable reasoning was laudable and formed the basis for consent from the HOA, the degree to which this amendment would achieve compliance is vital for regulatory purposes and formed the basis for his suggestion that the Commission consider this amendment.

Commissioner Kenworthy asked if the proposed amendment was clean and final. Mr. Rosing spoke to that question and stated that from the HOA’s perspective, this concern was precisely the issue that they were trying to eliminate. He commented that currently, an owner could question why they could not expand out like their neighbor was allowed to do. He opined that this plat amendment would foreclose that argument and define the allowable types of expansion.

Mr. Rosing added that they received the affirmative vote of over 2/3 of the ownership to approve this amendment. He commented that it is actually more difficult currently to deal with the potential arguments referenced above because no one is in compliance with the plat. He reiterated that this amendment would set forth the location of everyone’s unit, the current condition that would match the plat and set forth the options for expansion. Mr. Swalberg added that he was involved in the 2018 application, and he tried to use the above argument on a regular basis to help get things approved but was shut down.

Chair Suesser asked about the availability of an image for the 2018 application. Mr. Swalberg added that this model of the triplex was based on the building in the 2018 application. Planner Hawley stated that she did not have an image on hand for the 2018 application. With regard to the unit that “went too far,” Chair Suesser requested an image and noted that while it might have been in compliance with the plat at the time, this amendment would be seeking to preclude similar expansion. Mr. Swalberg pointed out that one of the main issues with that building was that it started with common space; he could not recall if the original plat gave that common space to the middle unit. He added that there was a lot of space for that particular unit and once the drawings were submitted, it had been built out and framed but was not dedicated to living space on the plat.

Mr. Swalberg referenced the images presented for Three Existing, as set forth in the Staff Report, and explained that the area under the sliding glass doors was on stilts, with a build-out structure. It was clarified that the presented 3-D images depict existing conditions on the left and proposed on the right. Commissioner Thimm asked if there was an existing application to make the proposed changes depicted in the images. Mr. Rosing expressed his belief that there were no applications pending because currently, the plat would not allow it.

Commissioner Thimm noted that this amendment would seek to establish limitations within agreed-to parameters, and the additions would reflect the extent of what an owner could do with their unit. Planner Hawley confirmed that there were no pending applications, and that this amendment seeks to address future applications. Mr. Rosing expressed that from the HOA's perspective, amending a plat is difficult because it requires a vote of 2/3 of the owners. In order to get to the proposed plat, they tried to make it equitable and provide the owners options for the future.

Commissioner Thimm understood that this amendment seeks to establish a way to accept some level of additions or remodel of the existing buildings within certain limits and provide guidance for future applications. He noted that there were a number of non-conforming conditions at the property. Commissioner Thimm questioned whether there was a need to include acknowledgment of the non-conforming portions of the building and accept them in this amendment. Mr. Harrington stated that without inspecting every single unit, there would be no way to know 100% whether a given unit was conforming or non-conforming. He would therefore not recommend that they grant that degree of estoppel, since those issues would still be assessed when they go through the process. He opined that the number of those instances would be minimal, and this proposed amendment would be the most consistent option that mirrored what is known to exist at the site.

He added that the amendment would be limited to defined areas and emphasized that the Planners walked the site and established the most logical way to accomplish this. He would not recommend speculating in terms of additional issues that might arise in the future. Owners would still have the option to subject their individual requests to the process. Commissioner Thimm confirmed his understanding that there would not be a need to acknowledge the other non-conforming uses and by accepting this change, the amendment would provide for limitations moving forward within the purview of what is defined by this change.

Mr. Rosing mentioned that some of the existing non-conformities were reflected on the new plat, which seeks to encompass all of the known changes. He clarified that this amendment would not require owners to remove non-conforming changes.

Commissioner Thimm expressed his agreement with the need to correct the previous errors and approvals and to provide limitations moving forward. He agreed with the architectural and parking/planning conclusions of the Planning Director and Staff and addressing the right-of-way allocation.

Chair Suesser echoed the comments of Commissioner Thimm. She asked if the HOA would be prevented from moving forward with assessments for making these changes for all of the units. Mr. Rosing expressed that from an HOA law perspective, a common assessment applied to everyone would result in unequal benefits to certain owners. He was confident that there would be significant push back if the HOA tried to do that and questioned whether the HOA could do that. He stressed that the HOA's primary charge is for the maintenance of the property, not the construction of additions to units.

Commissioner Kenworthy saw this amendment as giving the HOA the best tool possible to clean up this plat and move forward. He acknowledged that the owners already voted and approved of this amendment and to keep it in line for new owners. Mr. Rosing agreed with this summation and stressed that this would be the best tool for the HOA to address the non-conformities. He commented that the 2018 application was just as much an issue for the HOA as it was for the

City. Since exterior changes to the units must be approved by the HOA, the plat amendment would be the best way to eliminate the issue that arose in 2018.

Mr. Rosing added that one of the other functions of plats is to put people on notice. When a new owner buys in, they could see and know what they are buying. For the HOA, that eliminates the potential for litigation.

Commissioner Kenworthy commented that the HOA let this issue get out of control, and City Hall cannot be the mitigator of all of these issues. The City would count on the HOA to be able to address anyone who might want to act outside of this proposed amendment so that going forward, it does not get out of control. He expressed agreement with the Planning Director on all issues.

Ms. Philipp commented that this entire plat issue came as a big surprise to the current HOA Board and explained that the expansions that occurred into common areas occurred in the late 1980s to early 1990s. She confidently expressed that the current Board would use this amended plat, along with some of the new systems they have in place, to stay on top of owner additions. They have implemented design and construction specifications, processes for remodel applications, and created an Architectural Review Committee. She commented that the Building Department must also have an application signed by the HOA before proceeding.

Ms. Philipp stated that they were sorry that this occurred in the past, but the current Board has tried to resolve the issues; this plat amendment would resolve much of the past developments onto common and limited common areas and would allow new or existing homeowners the equal and fair opportunity to remodel and expand their property within the original footprint of the platted buildings.

She mentioned that the original plat showed a certain number of parking spaces for Payday, and the current layout, which has not changed significantly from the original plat, was more efficient. They also removed some of the community laundry facilities on site, which provided a few extra parking spaces. Ms. Philipp confirmed that they do not have many parking issues; she acknowledged that when Sundance first came into town, they did experience some issues of Sundance visitors using their lot. They now have a hangtag policy in place that has helped to address unauthorized vehicles.

Ms. Philipp stressed that they are working hard to manage the property, and they see it as very valuable to the community. She acknowledged that it could be improved aesthetically, and the 3-D images represent the new remodel additions in the new plat that enhance the Payday property, especially on the fourth level.

Commissioner Johnson asked about the demographics of the units in term of rentals versus owner-occupied. Ms. Philipp stated that they are a nightly rental property, and because of that, most people only have one vehicle to park, or are using ride-share or other transit options. She estimated that 2/3 of the units were used for nightly rentals. She stressed that people do not want a lot of renters coming in and out to damage their property; as a result, Payday has become a much more sophisticated property.

Commissioner Johnson wanted to clarify that there were no real parking issues and understood from Ms. Philipp that there were not. Most of the full-time residents have two automobiles, but they also receive two parking tags. They do not have a problem issuing two tags per unit, since

two-thirds of the units often only have one vehicle. She reiterated that they were not having any parking issues.

Commissioner Kenworthy expressed appreciation to Ms. Philipp and noted that she seemed to know exactly what is going on with the property. With regards to nightly rentals, he stated that the HOA could make sure that all of the units had their correct licenses. He noted that they have found that approximately 50% of properties that are used for nightly rentals never get licensed, and as a City, they are working on improving that. He stated that the HOA could help the City by ensuring that all of the units being used as nightly rentals be properly licensed and renewed annually.

Ms. Philipp noted Commissioner Kenworthy's request and stated that she would raise this at the next Board meeting. She expressed that they could include something in their Rules and Regulations without having to modify the CC&R's.

Commissioner Hall asked if that should be included as a Condition of Approval. Ms. Philipp expressed that they could easily add that to their Rules and Regulations but does not know how they could 100% guarantee that it could be enforced. Mr. Rosing added that HOA's have to be careful with this issue since the lobbies have been influential in pushing through statutes with respect to nightly rental units. Trying to include it in the Rules and Regulations would likely be acceptable under those laws, but if the HOA took it too far and treated short-term rental units differently, it would violate the Condominium Act.

Commissioner Hall agreed with Commissioner Kenworthy's comments. She suggested a Condition of Approval specifically calling it out under the conditions that require compliance with all laws and ordinances. Mr. Harrington stated that they would work on this with the applicant to see if they could include a COA that highlights this issue. He emphasized the limitations facing the HOA.

Chair Suesser opened up a public hearing on this item. Planning Director Milliken stated that there was a raised hand, but the person left. It was clarified that Payday's Property Manager, Eric Runions, was the one who raised a hand. He addressed the parking concerns and explained that he has managed Payday for 10 years, and that over those 10 years, 20-25% of the new owners used to be full time residents. He agreed that approximately 2/3 of the units were being used currently for nightly rentals; in the last five years, they have gone through Sundance with a decreasing number of parking spaces actually utilized due to rideshare.

Mr. Runions stated that the HOA has a very good parking enforcement policy, and they heavily monitor the lot, especially during peak times. Since implementation of parking enforcement and the presence of rideshare, they have not had to tow a vehicle in over 5 years.

In response to a question by Commissioner Johnson, Mr. Runions clarified that 10 years ago, they had approximately 50-60% owner-occupied units. Presently, with owner-occupied units at approximately 30-35%, there is more parking availability. He highlighted that of those 30-35% owner-occupied units, only three units have full time residents, while the remainder are utilized as second homes. Ms. Philipp acknowledged that they still have unauthorized vehicles park in their lot to utilize the ski lift across the street, but stressed, however, that they were not having issues and she did not foresee that they would due to the transit opportunities.

Commissioner Johnson expressed that his concern would be what could happen in 10 years if the owner-occupied percentage increases and there is not enough space. Commissioner Thimm commented that the parking at the site complied with what was required when it was built, so they were not dealing with a deficiency. Mr. Runions added that the HOA could reduce the amount of permanent parking spaces per unit in the future. Ms. Philipp confirmed that the HOA documents do not specify how many spaces per unit were granted. In terms of future issues, she felt it unlikely that they would run into issues because the property is so deficient in storage and garages.

Ms. Philipp reiterated her hope that the Commission would see this plat amendment as a valuable solution to the past and moving forward. Mr. Rosing commented that this plat amendment does not affect the parking issue raised by Commissioner Johnson. Commissioner Hall agreed with the Staff Report, and felt that there was clearly good cause, and had no issue with the density and parking. She expressed that the bigger issues were the setback violations. She understood that what exists would be properly labeled as "legal non-conforming, however, felt that the non-conformities were significant as compared to the current Code requirements. She also noted that height was a significant issue.

Commissioner Hall expressed that she was fine with adding density and had no problem with the 3-D rendering on page eight that illustrated enclosing the open area. She expressed that allowing the non-conformity with regards to setbacks while also allowing a height exemption did not sit well with her. She understood the desire to be equitable but combining the height exemption with the setback exemption should be addressed. Commissioner Hall stated that she would generally not be in favor of allowing increased height because the building would increase in mass.

Mr. Harrington clarified that only new setback issues would result from the new right-of-way dedication proposed in this amendment. All other setback issues were existing. He explained that this amendment would not expand any setback violations, but rather correct the right-of-way. He added that there were not adjacent property owners impacted by those areas adjacent to the right-of-way. Mr. Harrington stated that this could be further explained when this comes back before the Commission. The slide demonstrating the setback violations and the right-of-way was referenced and discussed. Planner Hawley pointed out that the right-of-way was already dedicated, but for some reason was never recorded in the original plat.

Commissioner Thimm stated that it would be important that the amendment include a statement that there would be no future encroachments into setbacks allowed. Mr. Rosing added that this is implicit in the plat amendment because none of the proposed expansion areas were further setback violations. Planner Hawley added that under this amendment, if someone proposed to extend their deck, they would need to comply with current LMC regulations, regardless of whether the unit was conforming or non-conforming.

Mr. Rosing addressed Commissioner Hall's concerns and stated that they could not chop back the setback violations, nor allow new setback violations. Commissioner Hall confirmed that her concern was that those buildings that were non-conforming should not be allowed to have the fourth-floor expansion.

Ms. Philipp clarified that all of the center triplex units have a fourth level pop out on top. Those existing pop-outs are small and not very usable. The proposal in the plat amendment would allow an 8 x 12 remodel addition located in those middle units only. She stated that they felt the impact

was quite minimal, and everything else complied with LMC height limits. She noted that the 3-D renderings represent a positive architectural aesthetic without impacting visual density.

Mr. Rosing stressed that from the HOA perspective, equity was how they got to this point and how they got the votes they needed for this plat amendment. It was hard to find something to give to the middle units, in particular, because they are sunk into the middle of two other units. The proposal would actually make the space usable and was the best, most equitable solution for those units. He commented that to remove this portion of the amendment would likely impact the support for this plat amendment from those owners because it would be unfair.

In response to an inquiry from Chair Suesser, Mr. Rosing clarified that the plat amendment allows different modifications, but the fourth-floor modifications were the only modifications that impact height and would only be allowed for the middle units.

Commissioner Thimm commented that because these additions will be in the center of the building, they are not really adding height but are slightly changing the volumetrics. He felt that it seemed that the proposal was still in keeping with what presently exists. Chair Suesser stated that this is something that could be revisited when the application comes back before the Commission.

Planner Hawley confirmed that she would revisit this and expressed she would confirm that they would not be giving a lot of extra height as a result of this amendment. Ms. Philipp added that the rendering that contains the yellow highlighted area shows the only proposed remodel addition included in this proposed plat amendment. She emphasized that currently those spaces are inefficient. The proposal would have minimal impact and would not increase the height because it is located in the middle of the building, allowing the density to taper down in all directions.

Planner Hawley asked Commissioner Hall if there was an issue that she could focus on that could help with her review of this matter. Commissioner Hall stated that she had a difficult time seeing on the overhead plat map where extra height density was coming from. Chair Suesser added that she had difficulty understanding the height of the proposed additions on the end units and if any of those end units would violate the height limitations for the zone. Planner Hawley confirmed that the end units do not violate the height limitations and would not violate the height limitations with the proposed additions.

Chair Suesser closed the work session on this item.

B. Land Management Code Amendments - The Planning Commission Will Conduct a Work Session on Reduced Accessory Apartment Regulations to Incentivize Development of Long-Term Rentals. PL-21-05000.

Assistant Planning Director, Rebecca Ward explained that the Code amendments were specific to Accessory Apartments, which are defined as dwelling units with cooking, sleeping, and sanitary facilities attached to a single-family dwelling or garage. The units have been allowed within most zones in Park City since the 1990's.

The LMC sets forth the following requirements for Accessory Apartments:

- They cannot be less than 400 square feet, or more than 1,000 square feet;

- They cannot be larger than 1/3 of the square footage of the main home;
- They cannot have more than two bedrooms;
- One additional parking space per bedroom is required;
- No more than four Accessory Apartments can be located within a 300-foot radius; and
- The Accessory Apartment and the associated single-family dwelling must be rented for more than 30 days.

Assistant Planning Director Ward reported that the City Council directed Staff to evaluate Code amendments to reduce Accessory Apartment regulations in an effort to incentivize private development of long-term rentals. She introduced Housing Manager, Jason Glidden. She added that the City Council identified reduced regulations on Accessory Apartments as one of the goals of the Housing Plan for this year. She stated that the Historic Preservation Board would review the proposed amendments specific to Significant and Landmark Historic Sites and what detached Accessory Apartments might look like on those sites. The Board would also look at any other potential impacts to the Historic Districts.

Assistant Planning Director Ward stated that the proposed amendments were scheduled to come back before the Planning Commission on November 10, 2021, for a public hearing and a recommendation to City Council. A Work Session with the City Council is scheduled for December 9, 2021, with a public hearing and action scheduled for December 16, 2021. She reported that in 2020, the City hired a consultant to evaluate the obstacles contained in the Code that prevented residents from building Accessory Apartments. The policy research memorandum is referenced throughout the Staff Report and referred to as the Sudbury Memo.

Work sessions for both the Planning Commission and the City Council dating back to 2018 have resulted in feedback and input that included the following:

- Allowing Accessory Apartments in the Community Transition zone (Park City Heights area);
- Allowing detached Accessory Apartments in some areas;
- Extending the minimum rental timeline from 31 days to 90 days or longer;
- Reducing the minimum square footage to as low as 280 square feet;
- Potentially eliminating the proximity requirements;
- Prohibiting nightly rentals;
- Potentially reducing parking requirements; and
- Potentially eliminating the requirement that the property owner live on site.

She added that there is an online survey that specifically addresses Accessory Apartments. Notice was sent out to community members, who can visit www.parkcity.org to complete the survey. The results to date were included in the Staff Report. Assistant Planning Director Ward referenced the 12 questions in the Staff Report where Staff is seeking input to help shape the draft Code that would be presented to the Commission in November. With regard to whether the property owner should be required to live on site, she noted that the current regulations require that the property owner either live in the single-family dwelling or the Accessory Apartment. The owner must also record a deed restriction.

She reported that the survey results indicate that opinions on this requirement were split approximately 50/50. The Sudbury Memo identified that owner-occupancy requirements present

challenges for the property owners because it limits the value of the Accessory Apartment investment by limiting how the owners can use their property. Additionally, owners could not move without selling their property, which eliminates maintaining the property as a future investment. She also reported that owner-occupancy requirements limit the value of the property in the eyes of the lender.

Assistant Planning Director Ward noted that communities like Los Angeles, San Francisco, Portland, Vancouver, and Austin have eliminated the owner-occupancy requirements. The Sudbury Memo found that many of the property owners in those communities continue to live on site even though it is not a requirement. They found that in Portland, 64% of the property owners continue to live on the property after the Accessory Apartment was completed. She highlighted Salt Lake City, which still requires owner-occupancy; however, a few years back Salt Lake City amended their Code where they expanded the definition of a "property owner" to include anyone who is related by blood, marriage, or adoption. Salt Lake City also included some exceptions to the owner-occupancy requirement, such as owners deployed for military service, temporary job assignments, or sabbaticals.

Assistant Planning Director Ward stated that if the owner-occupancy requirements are removed, Staff would recommend that the deed restriction requirement be maintained, so that nightly rentals would remain prohibited. She invited the Commission to provide their input on the issue of owner-occupancy. Chair Suesser noted that of the communities referenced that eliminated the owner-occupancy requirement, none of them were resort communities, or communities where second homes are prevalent. Assistant Planning Director Ward responded that they did not find any resort communities that eliminated the owner-occupancy requirement. Their initial research into resort communities found that the restrictions in those areas were more stringent, both in terms of the deed restrictions and who could live in the Accessory Apartment. She highlighted Breckenridge, which recently amended its Code to require that tenants in Accessory Apartments be employed within the County. Breckenridge maintained its owner-occupancy requirement.

Commissioner Hall stated that she would like to see the rental period extended to 90 days, because she would like to capture the accessory dwelling units for use by longer-term community members. She reiterated her position that as long as the rental of both the main dwelling and the Accessory Apartment was at least 90 days, she would have no objection to eliminating the owner-occupancy requirement. She felt that this would encourage both units to have a long-term, vested community member.

Commissioner Thimm agreed with Commissioner Hall's comments, including the minimum length of a lease for the main dwelling. Chair Suesser also agreed with these comments and stated that she would agree that an owner should not be required to reside on the premises as long as there is a long-term lease of greater than 30 days. Commissioners Thimm and Johnson stressed that they would like to see the minimal rental time be 90 days. Commissioner Kenworthy agreed as well.

Chair Suesser agreed that they want to encourage long-term rentals, but commented that 90 days seems more restrictive, but would consider it further. Commissioner Hall explained that the reason that she settled on a minimum of 90 days was she felt that it would encourage a vested community member. She commented that many HOA's have a 30-day minimum requirement, which people get around by only using the rental for a week or ten days, thereby functioning like a nightly rental. Commissioner Kenworthy agreed and added that the 90-day minimum would

give the seasonal worker a better chance at housing. Chair Suesser agreed that a 90-day minimum would be appropriate.

Assistant Planning Director Ward next addressed whether the Planning Commission should approve Accessory Apartments, approved by Planning Staff, or through by-right approval that would only require a building permit. With the exception of three of the Historic Residential zones, an applicant currently needs only to file an application with the Planning Department. If it complies with the Code, an approval letter is issued. The application carries with it a fee of \$330.00 and the process does not require a public hearing and is relatively quick.

In the three Historic Residential districts, there is a CUP requirement that triggers fee of \$1,140, Planning Commission review, a public hearing and approval. This process requires that the Accessory Apartment comply with the Code criteria as well as the CUP criteria, which includes evaluation of traffic; utility capacity; emergency vehicle access; fencing/screening/landscaping; building mass bulk and orientation; physical design; noise; expected ownership; and consistency with the General Plan. She added that the CUP process in the Historic Residential zones allow the Planning Commission to impose reasonable conditions to mitigate anticipated impact of the Accessory Apartment.

Survey results to date indicate a split in the community on this issue, with overall support for Planning Commission or Planning Staff review. A minority of respondents supported the by-right permit process. Assistant Planning Director Ward asked the Commission whether they wished to retain the CUP process for Accessory Apartments in Historic Residential zones or allow it to be handled at the Staff level.

Commissioner Thimm stated that he was open to the idea of having a well-written ordinance that established by-right zoning. Commissioner Hall agreed. Chair Suesser questioned how by-right would work with the limitation on the number of accessory units within a 300-foot radius. Acting Planning Director Ward noted that there were some challenges with that section of the Code. Commissioner Hall stated that she would advocate for removal of the cap in conjunction with by-right and having a clear permit process. Commissioner Thimm agreed.

Commissioner Kenworthy wanted to believe that could be done; but a 'one size fits all' process given the different neighborhoods and topography could present some issues. Chair Suesser added that she lives in Old Town and has concerns about allowing Accessory Apartments by-right. She highlighted parking issues, density and building on historic lots. She noted that Accessory Apartments would intensify the use in an already intensely used environment. Commissioner Kenworthy echoed these concerns.

Commissioner Hall suggested that as long as homeowners in Old Town were not exceeding their square footage or limits regarding disturbance, setbacks and heights, she would not be concerned. Chair Suesser offered that the Commission should retain the right to review these applications initially to see how they are going, and then potentially shift it to Staff review in the future.

Commissioner Johnson was agreeable with by-right, but in any Historic Residential zones, he would want to retain the CUP process. He added that it seemed like a volatile issue and the Commission should keep their focus on it. Chair Suesser and Commissioner Kenworthy agreed.

Assistant Planning Director Ward moved on to the question of whether the proximity cap should be removed. She explained that the current Code places a cap of four Accessory Apartments within a 300-foot radius. The cap also outlines a process for non-conforming accessory apartments to come into compliance with the Code, noting that they are aware of some illegal Accessory Apartments. The Planning Department has a record of approximately 50 Accessory Apartment approvals citywide. She explained that bringing non-conforming units into compliance could present challenges, particularly if there were already more than four Accessory Apartments within a 300-foot radius. If they could craft a Code that mitigated impacts on site, particularly as to parking and setbacks, then removing the proximity cap might be achievable.

Commissioner Kenworthy suggested that they could not remove the proximity cap in areas of Old Town. He noted that it might work to lift the cap in Park Meadows but did not think it would be a good idea in some of the Historic areas in Old Town. In response to a question regarding documentation of known illegal Accessory Apartments, Assistant Planning Director Ward stated that they know they exist, but they do not have record of them. She added that there might also be accessory buildings approved for a different use that over time transitioned into a dwelling unit.

Commissioner Hall commented that from her standpoint, a significant goal would be to encourage community members to live in the City full-time, which would hopefully reduce some of the use and disturbances to the community.

Chair Suesser asked if there was a cap on the number of people who could dwell in Accessory Apartments. She commented that she has seen long-term rentals in Old Town, where there are nine people living in a three-bedroom home, bringing with it a lot of vehicles. Assistant Planning Director Ward stated that the Code caps the number of bedrooms in Accessory Apartments to two, and the square footage to 1,000 square feet. She stated that they could work with the Building Department to see what the Building Code would regulate for occupancy.

Commissioner Thimm offered that the mitigating measures discussed could eliminate certain properties from being able to apply for an Accessory Apartment. He was bothered by the idea that within a district one owner might be able to do something with their property that another would not. He was not in favor of the 300-foot radius.

Commissioner Kenworthy also struggled with that issue and highlighted Kings Road, which is a historically problematic winter street. If there were four or more Accessory Apartments in a 300-foot radius in that area, it would be dangerous. Commissioner Thimm noted that the four units would all have to meet stringent criteria, including parking. It was noted by Commissioner Kenworthy that there is transit at the bottom of that street.

Commissioner Thimm explained that is the reasoning behind allowing a transit reduction for parking; transit reduces the need for parking. Commissioner Kenworthy agreed that anything close to transit could have reduced parking but stated that Kings Road is too dangerous to allow more occupancy. He noted that there were other areas like Kings Road throughout the City.

Chair Suesser commented that the reality is that even though they might reduce parking, parking is still happening with some of these units, and they would have to anticipate that there would be some violations. She would agree to remove the proximity cap outside of the Historic District. Commissioner Thimm expressed his support for that alternative, as did Commissioners Kenworthy and Johnson.

Assistant Planning Director Ward next raised the issue of whether detached Accessory Apartments should be allowed. She reported that the survey results to date show that 75% of the respondents answered in the affirmative. Research showed that some communities have minimum lot sizes for detached accessory dwelling units, with the average ranging from 4,500 square feet to one acre. She noted that in Park City, a minimum lot size of 3,750 square feet would allow for detached accessory apartments in most zones outside of the Historic Districts. It would also allow for some detached Accessory Apartments in the Historic Residential Low Density zoning district that have larger lot sizes. She explained that allowing detached Accessory Apartments on larger lots might allow for them to be developed; however, there could be challenges with some of the individual restrictions on buildable areas on those larger lots.

Assistant Planning Director Ward reported that overall, there was community support, as well as support by the Planning Commission and the City Council that detached Accessory Apartments should be allowed. She requested input from the Commission regarding issues such as lot size, allowable zoning districts, or any other restrictions.

Chair Suesser sought clarification of the low-density historic districts. Assistant Planning Director Ward clarified that they could be allowed in the HRL zone, which includes very limited residential zones within Old Town.

Commissioners Kenworthy and Thimm expressed support for the requirement of a 3,750 square foot lot size. In response to an inquiry, Assistant Planning Director Ward stated that the typical lot size in Old Town was 1,875 square feet. Commissioner Kenworthy explained that he was agreeable to the 3,750 square foot threshold since it is nearly double the lot sizes in Old Town. Commissioners Thimm, Johnson and Hall agreed.

Assistant Planning Director Ward clarified that the minimum lot size of 3,750 square feet would be applicable in all zones. She then addressed the issue of exempting Accessory Apartments from current Code requirements. She explained that currently, an Accessory Apartment must be within the maximum floor area specified in the LMC for a single-family dwelling. She added that many subdivision approvals specify a maximum square footage for the structure built on each lot, and most of the homes are built to that square footage. If Accessory Apartments were to continue to follow that requirement, it might prevent them from being constructed on lots where they might otherwise be allowed. Limits of disturbance and areas of disturbance, especially for larger lots and subdivisions, were established as part of the approval and is shown for each lot within a subdivision. She reported that some communities allow for some exceptions to maximum building footprints and limits of disturbance/area of disturbance.

With regard to setbacks, she explained that currently, Accessory Apartments must be constructed in a way that they are attached to the single-family dwelling. As a result, they must comply with the zoning district's setbacks. The LMC provides exceptions for accessory buildings, which can have reduced setbacks as low as 1' to the rear property line, or 3' to the side property line. The LMC currently excludes dwelling units from the definition of "accessory buildings." She added that if dwelling units were included in the definition of "accessory buildings," then Accessory Apartments would qualify to be built on site with these reduced setbacks. Alternatively, the Code could be crafted to provide that accessory buildings, whether detached or detached, would still need to meet the full setback requirements for the single-family dwelling on site.

Assistant Planning Director Ward explained that based on the input received to date, 54% of respondents were in favor of exempting maximum square footage. In allowing Accessory

Apartments to be exempt from limits of disturbance/areas of disturbance, only 43% were in support. She noted that limits of disturbance/areas of disturbance were often included in Conditions of Approval to satisfy items such as protecting vegetation, view sheds and ridgeline areas. She explained that communities such as Truckee, California require that the Accessory Apartments be constructed on lots with the most restrictive requirements applied. She continued by reporting that 54% of survey respondents felt that Accessory Apartments should meet the same setbacks as the single-family dwelling. In summary, community input to date showed support for applying the current restrictions to Accessory Apartments, with the exception of the maximum square footage restriction.

In response to an inquiry regarding whether these Code changes would supersede HOA rules and regulations, Assistant Planning Director Ward stated that they would not. Commissioner Kenworthy expressed that he would not want to turn every HOA upside down with these potential changes to the Code. Mr. Harrington stated that as a general rule, CC&Rs could supersede and be more restrictive than Code requirements. He noted, however, that the State legislature has started to limit what HOA's can regulate in terms of Accessory Apartments. He stated that they would present the State law at the next meeting on this item.

Assistant Planning Director Ward stated that with regard to Internal Accessory Dwelling Units ("IADU"), which are distinct from Accessory Apartments, the State has precluded HOA's from imposing restrictions. Accessory Apartments, whether attached or detached, are not currently regulated by the State.

Commissioner Hall felt strongly about the LMC setbacks and heights, and noted that in many of the HOAs, the lots have a small footprint. She suggested allowing the City to issue permits for simple applications that comply with requirements for square footage, limits of disturbance, setbacks and height. Staff, at its discretion, could look at the plat map for the square footage and limits of disturbance. She would support a requirement that an application that seeks a setback or height exemption go through the CUP process. She also stated that she would be open to the idea of not outright disallowing any exemption, and rather make determination on a case-by-case basis. Commissioner Johnson agreed that this would be a good solution.

Commissioner Thimm would not agree to change setbacks and area of disturbance; he also would not change allowable area unless that the area for the Accessory Apartment would be for a unit that the owner would allow to be deed restricted as a rental to an individual or individuals who would qualify for a 50% Area Median Income ("AMI"). He added that the Commission has looked at a number of situations where adjustments to area of disturbance were discussed, and he would rather see the Code remain unchanged.

Commissioner Kenworthy expressed concern about these issues. He liked Commissioner Thimm's suggestion but remained concerned that these changes would give someone an argument against his or her HOA. He noted that especially in the more exclusive neighborhoods, the accessory dwellings could be attached or, if detached, could fit into the existing setbacks and areas of disturbance. He stated that he was reluctant to agree with these exemptions unless there was something similar to that mentioned by Commissioner Thimm. He also wanted to know the target renter and the community good cause. He did not how they could include that in the LMC to define the target renter. Commissioner Kenworthy confirmed that he was not open to reducing setbacks or areas of disturbance. Commissioner Thimm and Chair Suesser were in agreement with this position.

Assistant Planning Director Ward confirmed that they could prepare the information requested for presentation at the next meeting. Mr. Glidden agreed that they should better define the target renter and added that they were currently working on a scope of service for a new needs assessment that should help them define that better. Mr. Glidden stated that based on Staff's research, they would look at a target AMI of 30 to 60 percent, based on area wages across the workforce. They want to ensure that they would be providing an AMI level that would be suitable for that target market.

Commissioner Hall expressed her belief that the target renter would include restaurant workers, single teachers and the like, and this type of structure would be conducive to that. She further explained her position and highlighted the community input on these issues. She would like to ensure that there would be some measure of flexibility to allow applicants to make their arguments to the Planning Commission or to Staff.

Assistant Planning Director Ward asked whether the Planning Commission would be on board with something similar to the parking reductions that were implemented for the Affordable Master Planned Development. She explained that parking reductions might be granted for those Accessory Apartments that were close to transit. Currently, the Code requires one parking space per bedroom. She also referenced prior discussions regarding allowing micro-units of 280 square feet and asked if there would be a willingness to include a parking waiver if a micro-unit was close to transit or an employment center.

Commissioner Thimm stated that he would be in favor of 280 square foot micro-units and the reduced parking, provided it would meet the Traffic Demand Management Plan requirements for reducing parking. Commissioners Kenworthy and Hall agreed. Chair Suesser also agreed but expressed continued concerns and requested that the Commission be presented with research on how the number of people dwelling in these units is regulated in other communities.

Assistant Planning Director Ward asked the Commission if there were anything else they would like Staff to address for the next meeting. Commissioner Thimm commented that they were trying to increase housing stock in the City and place it where it is needed. He wondered whether there was a way to inform homeowners that they could be able to have Accessory Apartment units on their property. Assistant Planning Director Ward stated that they have sent postcard notice to over 7,000 property owners in the zoning districts where Accessory Apartments are allowed. She stated that they could send another postcard notice after these Code amendments were enacted.

7. REGULAR AGENDA

A. 316 Ontario Avenue – Plat Amendment – The Applicant Proposes Creating One Lot for Parcel PC-488-A to Remove Remnant Lot Lines for a Landmark Historic Single-Family Dwelling in the Historic Residential Low – Density Zoning District. PL-20-04641.

City Planner, Lillian Lederer, introduced herself to the Commission. She reported that 316 Ontario Avenue is located within the Historic Residential Low zoning district and is a Landmark Historic Site. The applicant has proposed to remove two remnant lot lines in order to create one lot for a single-family dwelling. Planner Lederer stated that the Board of Adjustment approved a variance to the front setback for a detached garage. There is also a pending Historic District Design Review and Steep Slope Conditional Use Permit for the detached garage. She presented the proposed plat to the Commission.

Planner Lederer reported that the Planning Commission must find good cause for the proposed amendment. The proposed plat amendment provides for onsite parking along a narrow and steep right-of-way, resolves existing issues with the Landmark Historic Structure build-over lot lines and would be in character with the neighborhood. With regard to the Conditions of Approval, the applicant would be required to request a variance from the minimum lot size requirements from the Board of Adjustment prior to recording the plat. The applicant must also enter into an encroachment agreement with the City for driveway access over a right-of-way. In addition, the applicant must complete the Historic District Design Review and Steep Slope Review CUP, which is a Staff level approval, prior to recording the plat. Planner Lederer reported that Staff recommends the Planning Commission hold a public hearing and consider forwarding a positive recommendation for the City Council's consideration on October 28, 2021.

Chair Suesser opened the public hearing.

David Dorsey stated that he had hoped to provide public comment on the Accessory Apartments item. Chair Suesser clarified that that item was part of a Work Session, so it was not noticed as a public hearing. She agreed, however, to accept Mr. Dorsey's comments on Accessory Apartments. Mr. Dorsey strongly urged the Planning Commission to recommend modifying the LMC to eliminate parking requirements for Accessory Apartments near transit lines. The primary purpose of creating these units is to allow more people who work in Park City to live here. Reducing traffic in and out of town might offset any potential impact from parking.

Mr. Dorsey also commented that it was unfair to not impose parking restrictions on single families who might own many vehicles yet enforce them on Accessory Apartment owners and tenants. He stated that the Sudbury Report clearly presented strong evidence that eliminating the parking requirement could greatly increase Accessory Apartment development while minimally impacting neighborhood parking issues. He highlighted the conclusion that there was little to no evidence that Accessory Apartments affected parking congestion. Mr. Dorsey stated that he would be agreeable to require Accessory Apartment tenants to utilize remote parking lots when out of town travel was required. Public transit or active transportation could be used for in-town transportation and commuting.

There were no further public comments. Chair Suesser closed the public hearing.

MOTION: Commissioner John Kenworthy moved to forward a positive recommendation for City Council's consideration on October 28, 2021, for the Plat Amendment on 316 Ontario Avenue, subject to the following:

Findings of Fact

1. 316 Ontario Avenue is a cross-wing type house constructed circa 1895.
2. 316 Ontario Avenue is designated a Landmark Historic Site on the Park City Historic Sites Inventory.
3. To enable construction of the detached garage, the Applicant proposes creating one Lot for 316 Ontario Avenue to remove remnant Lot lines for the Landmark Historic Site.

4. The Applicant also submitted a Historic District Design Review and Steep Slope Conditional Use Permit, which is pending Planning Department review and a public hearing.
5. The proposal complies with Land Management Code Chapter 15-2.1, Historic Residential Low – Density District.
6. A Single-Family Dwelling is an allowed use in the Historic Residential Low-Density (HRL) Zoning District.
7. The proposed plat amendment creates one Lot for the Landmark Historic SingleFamily Dwelling at 316 Ontario Avenue.
8. On October 15, 2019, the Board of Adjustment approved a Variance to the Front Setback to locate a detached garage along Ontario Avenue.
9. However, pending Planning Commission recommendation and City Council approval, the Applicant will also need to request Variance approval for the Lot size, which does not meet the HRL Zoning District requirements.
10. The HRL Zoning District requires a minimum Lot Size of 3,750 square feet. The Applicant must request Board of Adjustment approval for a Variance from the minimum Lot size requirements in the HRL Zoning District prior to recordation of the amended plat. The proposed Lot is 2,444 square feet.
11. The minimum Lot width in the HRL Zoning District is 35 feet. The proposed Lot is 36.48 feet.
12. The Building Footprint for a 2,444-square-foot Lot is 1,065 square feet. The proposed project will contain 1,050 square feet.
13. The required Front Setback in the HRL Zoning District is 10 feet. On October 15, 2019, the Board of Adjustment approved a Variance to the Front Setbacks to locate a detached garage along Ontario Avenue.
14. The required Rear Setback in the HRL Zoning District is 10 feet.
15. The Rear Setback ranges from nine feet to ten feet. Historic Structures that do not comply with Setbacks are valid Non-Complying Structures pursuant to LMC Section 15-2.1-4.
16. The required Side Setbacks in the HRL Zoning District are five feet. The southern Setback is just under three feet; the northern Setback is three feet. Historic Structures that do not comply with Setbacks are valid Non-Complying Structures pursuant to LMC Section 15-2.1-4.
17. New construction must comply with Setbacks.

Conclusions of Law

1. There is Good Cause for this plat amendment because the amendment allows for on-site parking along a narrow and steep Right-of-Way, resolves existing issues with a Landmark Historic Structure built over Lot lines, and is in character with the neighborhood.
2. The Plat Amendment is consistent with Land Management Code Section 15-7.1-3(B), 15-7.1-6, and Chapters 15-2.1 and 15-7.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the Conditions of Approval, prior to recordation of the plat.
2. The Applicant shall record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The property is not located within the Park City Soil Ordinance Boundary and, therefore, it is not regulated by the City for mine-related impacts. However, if the property owner encounters mine waste or mine waste impacted soils, they must handle the material in accordance with State and Federal law.
4. City Engineer review and approval of all lot grading, utility installations, public improvements, and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
5. New construction must comply with Setbacks.
6. The Applicant shall enter into an Encroachment Agreement for a driveway and access over the City Right-of-Way to the detached garage.
7. The Applicant shall obtain Board of Adjustment approval for a Variance from the minimum HRL Zoning District Lot size prior to recordation of this plat.
8. Site plans and building designs must resolve snow release issues to the satisfaction of the Chief Building Official.
9. The detached garage must comply with the Historic District Design Guidelines and completion of the Historic District Design Review Process and Steep Slope Conditional Use Permit approval is required prior to recordation of the plat.

10. 316 Ontario Avenue does not have a culinary water meter or sanitary sewer lateral. The Engineering Department requires that the Applicant submit a site plan showing utilities, grading, and storm drainage design and calculations for review and approval prior to submitting a building permit.

Commissioner Sarah Hall seconded the motion.

VOTE: Commissioner Thimm-Aye; Commissioner Johnson-Aye; Commissioner Kenworth-Aye, Commissioner Hall-Aye, Commissioner Suesser-Nay. The motion passed 4-to-1.

- B. 543 Park Ave - Hotel, Minor Conditional Use Permit - The Applicant Requests a Minor Hotel Conditional Use Permit to Convert the Washington School Inn, a Landmark Historic Structure on the Park City Historic Sites Inventory in the Historic Residential -- 1 Zoning District, from a Bed and Breakfast to a Minor Hotel with Accessory Facilities for Events.**

Chair Suesser reported that the above item was continued to the November 10, 2021, Planning Commission meeting.

MOTION: Commissioner Sarah Hall moved to CONTINUE the 543 Park Avenue Conditional Use Permit to the November 10, 2021, Planning Commission meeting.

Commissioner John Kenworthy seconded the motion.

VOTE: Commissioner Johnson-Aye; Commissioner Hall-Aye; Commissioner Suesser-Aye, Kenworthy-Aye, Commissioner Thimm-Aye. The motion passed unanimously.
Chair Suesser opened the public hearing.

Graham Gilbert spoke on the behalf of the applicant and confirmed that the applicant requested the continuance. He reported that City Planner, Browne Sebright, shared with the applicant several public comments and he stated that they wished to speak with the neighbors who made the comments about the application and the proposed mitigation. They reached out to the neighbors who submitted written comments to advise of the requested continuance and to schedule Zoom meetings to hear their feedback in advance of the November 10 meeting.

Chair Suesser asked Mr. Harrington if it was appropriate for Planning Commissioners to attend the Zoom meetings with the neighbors. Mr. Harrington answered in the negative and explained that the Commissioners are still subject to *ex parte* limitations on an administrative application.

There were no public further public comments. Chair Suesser closed the public hearing.

- C. 402 Park Avenue - Plat Amendment - The Applicant Proposes to Remove an Interior Lot Line, Combining Lots 31 and 32 of Block 10 of the Park City Survey, to Create One Lot of Record in the Historic Residential - 2A (HR-2A) Zoning District. PL-21-04961.**

Planner Sebright presented the staff report and stated that the request is for a plat amendment that originally was submitted as a Historic District Design Review application, which remains pending. He explained that the proposed plat amendment seeks to remove an internal lot line that is common to Lots 31 and 32 in order to create a single lot of record. He stated that the

owners were considering modifications to the accessory structure on the rear of the property. He presented a schematic to the Commission illustrating the proposed plat amendment.

Planner Sebright reported that the structure is the old Park City Community Church, and a Landmark Historic Site. The building is well over 100 years old. For context, he explained that 402 Park Avenue is within the heart of Old Town, just off Main Street. It is located in the HR-2A zoning district, which provides a buffer between the Historic Commercial core of Old Town and the residential neighborhoods to the West. The building is located at the corner of Park Avenue and Fourth Street.

Planner Sebright presented photographs of the current building, as well as the accessory structure, which is referred to as the Pastor's house. He reported that Staff determined that this application complies with the requirements of the HR-2A zoning district. Because it is a Landmark Historic Site, it does not necessarily comply with building footprint; however, he explained that because it is a Landmark Historic Site, it would not be changing anytime soon.

Planner Sebright stated that the detached accessory unit that houses a garage and small space above was granted variances for setbacks in 1994. He added that there were no proposed changes to those setbacks included in this application. He reported that Staff also analyzed this application against general subdivision requirements and found that it complied. They have proposed Conditions of Approval to ensure compliance with the LMC. In terms of general lot design requirements, Planner Sebright stated that Staff found it complied as conditioned. Staff also determined that good cause exists for the plat amendment because it would resolve existing issues and allow for future improvements to the site.

He reported that in August 2021, the Design Review Committee found no issues with this application. Staff found that the proposed amendment complied with the zoning district, lot and site requirements, subdivision requirements and general lot design requirements as outlined and conditioned in the Staff Report. Planner Sebright stated that Staff has not received any public comment and recommended that the Commission forward a positive recommendation for City Council's consideration on November 11, 2021.

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

MOTION: Commissioner John Kenworthy moved to forward a positive recommendation on the 402 Park Avenue Plat Amendment for City Council's consideration on November 11, 2021, subject to the following:

Findings of Fact

1. On September 22, 2021, the Planning Department received a complete Plat Amendment Application.
2. The property is located at 402 Park Avenue.
3. 402 Park Avenue is described by metes and bounds and includes Lots 31 and 32, Block 10, the Park City Survey. PC-162-A.
4. 402 Park Avenue was constructed across Lot lines.

5. The current configuration of these lots has been in place since 1899.
6. Prior to 1979, 402 Park Avenue was in the R-1 Zoning District.
7. From 1979 to 1983, the property was in the HR-2 Zoning District.
8. From 1983 to 2000, the property was in the HR-2 Zoning District, and the Historic Transition Overlay (“HTO”).
9. Since 2000, the property has been in the HR-2A Zoning District.
10. In addition to creating two Lots, this Plat Amendment accommodates the dedication of King Road, a Public Right-of-Way.
11. On June 29, 1993, the Board of Adjustments granted 402 Park Avenue Variances for Rear and Side Setbacks of the Detached Accessory Garage.
12. The Applicant proposes the 402 Park Avenue Plat Amendment to create a 3,893 square foot Lot in the Historic Residential – 2A Zoning District.
13. The proposed Plat Amendment complies with the purposes of the Historic Residential – 2A Zoning District.
14. The proposed Subdivision complies with the Lot and Site requirements for the Historic Residential – 2A Zoning District.
15. The proposed Subdivision complies with Land Management Code Section 15- 7.3-2, as outlined in the staff report, and conditioned below.
16. The proposed Subdivision complies with Land Management Code Section 15- 7.3-3, as outlined in the staff report, and conditioned below.
17. Plat Amendments shall be reviewed according to Section 15-7.1-6 Final Subdivision Plat and approval shall require (a) a finding of Good Cause, and (b) a finding that no Public Street, Right-of-Way, or easement has been vacated or amended.

Conclusions of Law

1. There is Good Cause for this Subdivision because the removal of the Lot lines resolves existing issues and encourages orderly and beneficial Development to comply with the Land Management Code.
2. The Subdivision complies with Land Management Code Chapters 15-2.3, as well as Sections 15-7.3-2 and 15-7.3-3.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.

4. Approval of the Subdivision, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant shall record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year, this approval will be void, unless the applicant submits a request for an extension in writing prior to the expiration date and an extension is granted by the City Council.
3. The plat shall note that fire sprinklers are required for all new construction, to be approved by the Chief Building Official. Interior and exterior fire sprinkler systems may be required by the Park City Fire District at the time of Building Permit review.
4. Any additions to the existing Structures and all new Structures must comply with the required Setbacks of the Zoning District.
5. The property is not located within the Soils Ordinance and therefore it is not regulated by the City for mine-related impacts. However, if the property owner encounters mine waste or mine waste impacted soils, they must handle the material in accordance with State and Federal law.
6. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
7. All Significant Vegetation that is removed shall be replaced in kind.
8. Existing natural drainage shall be maintained. Future improvements to the hardscape of the property should include porous paving or the removal of hardscape in order to abate surface water runoff and heat island effect.
9. Site plans and Building designs shall resolve snow release issues to the satisfaction of the Chief Building Official.
10. Lot drainage shall be laid out to provide positive drainage away from the Single-family Dwelling in accordance with the International Building Code.
11. All disturbed areas on the Lot shall be covered with topsoil and revegetated.
12. No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, or other waste materials of any kind shall be buried in any land or left or deposited on the Lot at the time of a Certificate of Occupancy

Commissioner Bill Johnson seconded the motion.

VOTE: Commissioner Johnson-Aye; Commissioner Hall-Aye; Commissioner Suesser-Aye, Kenworthy-Aye, Commissioner Thimm-Aye. The motion passed unanimously.

D. 3805 Fox Tail Trail - Subdivision - The Applicant Proposes Creating One Lot from Parcel PCA-S-98-SEC-11 for a Single-Family Dwelling in the Estate Zoning District and One Parcel in the Recreation Open Space Zoning District. PL-21-04826

Planner Sebright presented the staff report and state that this item and the next involve two applications for 3805 Fox Tail Trail. The applications previously came before the Planning Commission in July 2021. He reported that the applicant has proposed to create one lot from an existing parcel that spans the Estate Zoning District and the Recreation Open Space Zoning District. The applicant seeks to construct a single-family dwelling on the new parcel. As part of this application, the applicant proposed to dedicate a 23.89-acre parcel to the City, subject to a conservation easement.

Fox Tail Trail is 32 acres in size and currently unimproved. He explained that the proposed lot is located on the east side of Park City above the upper Deer Valley neighborhood and Park City Heights. He explained that currently, the proposed parcel contains three acres within the Estate Zoning District, with the remaining located within the Recreation Open Space Zone. He presented a schematic showing an aerial view of the site and noted that there is a protected ridgeline on the site, which determined the location of the proposed dwelling. He noted that the single-family residence would be located on three acres of the site, with the balance of the site remaining as open space.

Planner Sebright presented a photograph of the property taken from the end of Fox Tail Trail. He highlighted the ridgeline and noted that these ridgelines were outlined in the LMC and the Park City General Plan. They have been denoted and are afforded a 150' radius around them where development is prohibited. The applicant has proposed to put the single-family dwelling in the Estate Zone portion of the parcel. He noted that due to the protected ridgeline, it would be more difficult to fit a home in that location given the other constraints of the site, including a right-of-way easement that runs diagonally through the parcel. As a result, the applicant proposed a subdivision to provide a residence building pad location outside of the ridgeline.

Planner Sebright explained that Lot 1 will hold the single-family residence and the remainder of the parcel would be dedicated to the City. Staff determined that the application complied with the purposes of the Estate and Recreation Open Space Zoning Districts. He explained that the applicant has proposed a single lot with one single-family home and would leave the rest of the site virtually untouched. He added that the proposal complied with the regulations of the Estate and Recreation Open Space Zoning Districts. Staff compared the Fox Tail subdivision with lot and site requirements of the Estate Zoning District, and this proposal complied with those requirements.

Planner Sebright stated that with regard to general subdivision requirements, Staff found that the proposal complied as conditioned. He noted that the five categories in the Conditions of Approval were limits of disturbance; natural drainage and existing grade; vegetation protection; ridgeline protection; and trails.

With regards to limits of disturbance, Planner Sebright explained that Staff recommended, and the applicant proposed, maximum floor area and maximum site disturbances. He noted that Staff

compared this proposal with large lots in the Hidden Meadows subdivision and arrived at a maximum site disturbance of 16,000 square feet for the building pad, and a maximum floor area of 10,000 square feet. Additionally, it was recognized that a longer driveway would be required, so Staff proposed limits of disturbance for the driveway and required sewer line of 13,700 square feet. He noted that Staff also included Conditions of Approval to preserve natural drainage and existing grade. The driveway was designed to minimize cuts and fills to further minimize disturbance to the grade and drainage.

Planner Sebright reported that Staff included Conditions of Approval for vegetation protection to require that vegetation is replaced in kind, and the applicant would be required to submit a Vegetation Protection Plan prior to applying for the Building Permit. They also included a Condition of Approval that would denote the ridgeline and ridgeline area on the final plat. In addition, they included a condition that trails would require 10-foot-wide easements and would maintain public trail access in perpetuity. He also noted that the applicant would be financially responsible for trail relocation and the Certificate of Occupancy would not be issued until the relocation of the trails and dedication of the easements is complete.

Planner Sebright explained that there would be no new trails, only relocation of trail segments. The Fox Tail Trail segment would be located further out to accommodate the building site, while the other trail segment would be relocated to accommodate the new driveway access. He referenced the discussions at the prior Planning Commission meeting regarding a potential Condition of Approval to keep a part of the relocated trail segments at least 30 feet away from the setback side property line. He explained that while most of the trail would be beyond that 30-foot setback, at least some portion of the trail would need to be within the side setback due to the location and orientation of the driveway. He reported that after discussion with Park City's Trails and Open Space Manager, they determined that having the trail share space with the driveway could lead to confusion and potential liability issues. He stated that the preference would be to have the trail remain separate when relocated.

Planner Sebright referenced an additional exhibit provided by the applicant that addressed the concerns of the neighbors regarding existing vegetation. He explained that a certain amount of the site would have to be disturbed for a connection to the sewer line and for the relocated trail segment. Neighbors had indicated that there are a couple of groves of Gambel oak that should be protected. In response, Planner Sebright explained that the applicant proposed adjusting the trail location to protect those areas of Gambel oak, although there would likely still be some cutting required for the sewer connection.

Planner Sebright next addressed the public comment regarding relocation of the trailheads and concerns about increased traffic. He reiterated that no new trailheads or trails were being proposed; the applicant only seeks to adjust where the trailheads meet the cul-de-sac. No additional improvements, signage, kiosks or trashcans have been proposed. He reported that Staff took the applications to the Neighborhood Traffic Management Program Committee, and they suggested a monitoring and management plan for those trailheads. This would include counters, documenting parking issues, and determining any public safety issues if vehicles were blocking hydrants or driveways. Additionally, the Committee provided a plan to continue to monitor and enforce as necessary.

Planner Sebright reported that Staff recommended Conditions of Approval to address general lot design requirements of the LMC. These conditions involve items such as building envelope, square footage and drainage. Staff found good cause for the subdivision, as it would protect the

ridgeline area, encourage orderly and beneficial development and comply with the Estate and Recreation Open Space Zoning Districts. Staff also found that it complied with the lot and site requirements, and the requirements of the Sensitive Lands Overlay as outlined and conditioned in the Staff Report.

Planner Sebright noted that Staff received inquiry regarding the status of this application from a number of the neighbors who are part of the Hidden Meadows HOA Board. He reported that Staff received three written public comments, which have been shared with the Commission. He noted that many of the comments were similar to those made during the last meeting on this application. Staff recommended the Commission forward a positive recommendation for City Council's consideration subject to Findings of Facts, Conclusions of Law, and Conditions of Approval. He advised that the applicant's representative, Doug Ogilvy, was also present.

Chair Suesser asked who would be responsible for paying for the trail relocation. Planner Sebright responded that the applicant would be financially responsible for the relocation of trails on Lot 1; on the portion dedicated to the City, the City would be financially responsible for relocating the trails. Mr. Ogilvy clarified that at the last meeting, he offered that the applicant would pay for the reconstruction of the trails on Parcel A as well.

With respect to the grading of the driveway and the necessity for retaining walls, Planner Sebright explained that the intent with the driveway location was to minimize cut and fill. He referenced the Civil Engineering drawings included as an attachment to the Staff Report but could not state whether the areas of cut and fill would require retaining walls. He explained that due to the length of the proposed driveway, Staff recommended separate limits of disturbance. One would be for the home site, with a second for the driveway and sewer easement.

Chair Suesser noted that the area of disturbance was calculated relative to the Hidden Meadows homes, and it would amount to 8.56% of the 4.3-acre lot for the home site only. Planner Sebright confirmed this and added that this was how the Areas of Disturbance were calculated for the homes in Hidden Meadows; in the Hidden Meadows plat notes they specifically stated that driveways were not included in this calculation. Chair Suesser commented that the driveways in Hidden Meadows were a fraction of this proposed driveway.

The proposed sewer line was discussed. Chair Suesser asked whether the proposed location was the only option. Mr. Ogilvy explained that the location was appropriate because it would connect to a low-pressure sewer line that already exists across Lot 25. He noted that when Hidden Meadows was constructed, the intent was that this property would tie into that sewer line.

In response to an inquiry from Commissioner Thimm, Mr. Ogilvy stated that there was an existing sewer line crossing Lots 24 and 25. He confirmed that what has been proposed was the basic intent when Hidden Meadows was initially constructed.

Chair Suesser asked if alternatives for the placement of the sewer were explored. Planner Sebright stated that they reached out to the sewer district and were advised that this location is the best option for the home to be serviced by the sewer district because it ties into the existing sewer line.

In response to a question by Commissioner Hall, Planner Sebright confirmed that the City's Trails and Open Space Manager reviewed the proposed new trail connections.

Chair Suesser opened the public hearing.

Randy Johnston stated that he and his wife own property located at 3790 Fox Tail, which is Lot 27 and adjoins this proposed development. He stated that the drawings they have reviewed show the maximum of an eight-foot cut for the driveway. He added that the intent for the sewer line never contemplated this proposed driveway, or this proposed home. He understood that several members of his neighborhood reached out to the developer, who has been unresponsive. He expressed that there were two facts being advanced in support of this application that are being misused. He noted that he authored two of the letters submitted to the Commission today.

Mr. Johnston stated that the neighbors were concerned about nightly rentals in a 10,000 square foot home. The HOA prohibits those rentals, however because the original Lot 26 is not in the HOA, nightly rentals would be permitted. He explained that the two facts that he believed were being misrepresented were (1) it was always contemplated that there would be a home on Lot 26; and (2) the HOA had the opportunity to include Lot 26 in the HOA and failed to do so. Mr. Johnston stated that what was contemplated on Lot 26 was not what is being sought now. He added that Lot 26 was essentially not buildable because of the ridgeline requirements, and the HOA declined to include it in the HOA because it was not buildable.

Mr. Johnston stressed that the current developer wanted to change things and take the position that the HOA missed their chance of including this parcel within the HOA. He indicated that some of the neighbors would drop their objections if there were an agreement with the applicant to either join the HOA or otherwise restrict nightly rentals. He stated that they have had no response to that proposal. He reiterated that the neighbors remain opposed to this development under the proposed terms and any discussion regarding what was originally contemplated ignores the reality that the world was different when those decisions were made.

Chair Suesser asked why the HOA had the impression that Lot 26 was not buildable. Planner Sebright could not speak to that but noted that this area was annexed into Park City in 1994 and the Sensitive Lands Ordinance was enacted sometime later. He does not know when the Ridgeline Ordinance actually went into effect that would have made this lot significantly more challenging to build.

Chair Suesser noted that the portion of this lot that would be dedicated to the City would not be buildable because it is zoned Recreational Open Space. Planner Sebright agreed that the intent behind the Recreational Open Space Zone was to keep land as open space. Chair Suesser reiterated that the 23.89-acre parcel that the applicant proposed to dedicate to the City is not a buildable parcel.

Planner Sebright commented that there might be opportunity for future trail improvements or other gathering areas on some of the overlooks on that land. With respect to the sewer line easement, Planner Sebright understood that the sewer line was built specifically to service Lots 25 and 26, which is why it was extended to the property line.

James Letchford stated that he resides at the mouth of Fox Tail Trail. He echoed his neighbors' comments and stated that he represents the HOA Board. He reported that many have expressed concern about this property going in as a subdivision that would use all of the Hidden Meadows' road systems and plumbing infrastructure, yet it is set out as its' own subdivision and governed by no one. While he was not around when the HOA declined to take this property into the HOA, his review of the documents indicated that that this property was not developable. Mr. Letchford

offered that this application seeks an extreme variance to many of the Building Codes through a driveway that would have 14,000 square feet of impact, in addition to the 10,000 square foot home.

He commented that they would be looking at a hotel that could have short-term rentals in their neighborhood, with a driveway that comes off of their road systems. Mr. Letchford stated that this proposal is very concerning to the neighbors. He stated that they reached out to the developer on several occasions to see if they could come to some sort of agreement, however the applicant has not responded. Mr. Letchford added that several months ago there was an HOA vote on short-term rentals, and it was rejected. He also noted that Hidden Meadows suffered two water main breaks in August. In the past year, they have had approximately six water main breaks. By allowing this enormous property at the back of Hidden Meadows, it would pull off the public utilities that are already stressed, without being under the umbrella of the HOA.

Cyndi Sharp identified herself as the owner of Lot 25, which is the property to the west of the subject property. She echoed the concerns expressed by Mr. Johnston that there were not any CC&R's applicable to this property. There should be something consistent with the Hidden Meadows HOA, primarily with respect to nightly rentals. She also would like to see more definition with respect to the proposed Area of Disturbance. She stated that CC&R Section 4.2 of Article 4 provides that the total square footage should include the driveway, garage and the home. She understood that the CC&R's do not apply to this subdivision but argued that they should apply as far as fitting in with the existing neighborhood.

She reiterated that the prospect for nightly rentals was a significant issue and referenced some homes in Hidden Oaks that are nightly rentals and create a lot of traffic and parking issues. She noted that if CC&Rs were not recorded at the time of the plat, they never would be. Ms. Sharp also suggested that they move the sewer line to the cul-de-sac, which would reduce the amount of cut and fill and vegetation disturbance.

Cooper Williams stated that he sits on the Hidden Meadows HOA Board. He echoed the comments of Ms. Sharp and although he understood that the CC&R's do not apply to this property, he noted conflicts within the original platting that stated the maximum allowable square footage would exclude the driveway. He stated that because Staff used Hidden Meadows square footage and Area of Disturbance as a guideline, the CC&R's have never excluded the driveway from the Area of Disturbance calculation. He recalled that when he constructed his home in 2014, the 200-foot-long driveway was included in the square footage calculation.

Mr. Williams also noted that on the original plat for the subdivision, there was a note that no construction should occur on an adjoining property until the Hidden Meadows Phase Two subdivision plat was recorded. He requested clarification on these issues. From the HOA's perspective, the main concerns were that Fox Tail would never be opened up into Park City Heights. He understood from Planner Sebright that a road from Fox Tail to Park City Heights would likely never be constructed, and this development would limit that possibility forever. He understood from the prior HOA President that platting for Park City Heights would prevent that as well. He also listed short-term rentals as a major concern with this development. He suggested that some compromise be explored on that issue. He referenced the earlier discussions on Accessory Apartments about encouraging long-term community members and stated that the neighborhood would prefer a longer-term tenant to a weekend frat party.

Madeline Letchford, the wife of James Letchford, requested clarification that the proposed trail relocations were fully approved by the Trails and Open Space Manager. She stated that the County Sheriff's Department recently put down an aggressive mountain lion and noted that the proposed development area has a lot of wildlife. There is a large moose population, a significant number of deer and their predators. Her concerns surrounded impacts to the wildlife community, and those community members who live and use those areas.

Ms. Letchford stated that when she and her family moved to Hidden Meadows, they were particular to ensure that short-term rentals were not going to be an issue in their neighborhood, having had lived through that before. She stated that she was not against development, but there should be protections for those members of the community who sought out areas where short-term rentals would not be allowed. She expressed that the proposed lot would kill the 50 homes in Hidden Meadows and the amazing community.

Cooper Williams sought clarification of the total square footage of the proposed home. Planner Sebright confirmed that the maximum building area would be 10,000 square feet, which is consistent with the maximum allowed for homes in Hidden Meadows. He also confirmed that the Trails and Open Space Department approved the configuration of the trail relocations and included their specific conditions on the orientation and relocation of those trail segments.

Planner Sebright clarified that the Hidden Meadows subdivision plat notes specifically mention that driveways were excluded from the Area of Disturbance. He noted that CC&R's might be more restrictive, however the City does not regulate development based on CC&R's. With respect to the comment regarding prohibiting development on Lot 26 until Hidden Meadows Phase Two was recorded, Planner Sebright stated that the plat does contain that note, however that option expired.

Planner Sebright addressed the concern about a road connecting the Fox Tail cul-de-sac to Park City Heights and stated that this proposal would not accommodate that, and Staff did not request any easement for any future road extension.

Chair Suesser requested further information on the notion that Lot 26 was considered unbuildable. Planner Sebright stated that he did not have a clear understanding of where that notion originated. He reiterated that this area was annexed into the City in 1994 and concurrently zoned to include a portion of the lot in the Estate Zone. He concluded that this zoning would imply that this would have a lot on it. He added that during the Hidden Meadows Phase One subdivision, Lot 26 was included in a potential Phase Two, which would suggest that there was an understanding that there would be a lot on this property.

In response to questions from Commissioner Thimm, Planner Sebright confirmed that Fox Tail Trail is a public street and not owned by the HOA. He also confirmed that the sewer and water utilities that service that street were public utilities and clarified that the sewer easement across Lot 25 is a private sewer easement.

Commissioner Thimm questioned whether they required input from the City Engineer to determine whether capacities for water and sewer for a home on Lot 26 would be accounted for. Planner Sebright explained that the Development Review Committee did not raise any concerns regarding capacity.

Commissioner Thimm asked Mr. Ogilvy if the applicant would be opposed to a Condition of Approval prohibiting nightly rentals. Mr. Ogilvy stated that he heard the concerns of the neighbors regarding nightly rentals in the Hidden Oaks subdivision. He stated, however, that Park City is a resort community, and this home would be located at the end of a 700-foot driveway, which would be a different condition than that found in Hidden Oaks. He expressed that if nightly rentals were permitted anywhere within the Estate Zone, then a home at the end of a 700-foot driveway would be an appropriate place for them.

He added that they have not marketed the home and do not know what the goals and aspirations of the end user would be but given the significant physical separation of the proposed home site from the adjacent neighborhood, he opined that nightly rentals would not be anything like the impacts felt in Hidden Oaks. Mr. Ogilvy expressed concern about a Condition of Approval prohibiting nightly rentals and was not convinced it was appropriate.

Commissioner Hall requested further information on the expiration of the plat note for the Hidden Meadows Phase Two subdivision and wondered why this parcel would not be included in the HOA. Planner Sebright deferred to Assistant Planning Director Ward, who assisted with some of the historical documentation.

Mr. Ogilvy recalled that the reason that Lot 26 was not included in the original plat was there was some question as where United Parks land ownership started and stopped. The Hidden Meadows plat was recorded with overlapping property lines, which were resolved prior to submitting this application. He added that there is a sunset clause in the CC&R's that stated that the HOA would not be allowed to annex the property after a certain date, which has passed. Under City Code, an owner could not build on an unplatted lot, so the plat note on Phase One makes sense and supports the reasoning behind this application. He reiterated that the sunset clause in the CC&R's prohibits the annexation of this property into the HOA.

Chair Suesser requested the language contained in the note on the original plat for Hidden Meadows, Phase One. Assistant Planning Director Ward presented the plat note requested and read it as follows: "No construction shall occur on adjoining property until Hidden Meadows Phase Two Subdivision plat is recorded." Planner Sebright referenced the Hidden Meadows CC&R's, attached as Exhibit H to the Staff Report that sets forth the sunset clause, which he recalled being a date in 2007.

Chair Suesser asked the applicant if they would consider joining the Hidden Meadows HOA. On behalf of the applicant, Mr. Ogilvy expressed opposition to that suggestion. He reiterated that this property would be 700 feet removed from the nearest neighbors and would not need to be subjected to a 1995 set of CC&R's.

Commissioner Johnson understood the reasoning behind the sewer connection on Lot 25, but noted the presence of a manhole at the bottom of the driveway on Lot 24 and wondered whether that could provide a sewer location that would stay in the right-of-way. He commented that the connection point of the sewer along the edge of Lot 25 would essentially be unbuildable on Lot 26 due to the ridgeline. He felt the sewer line location should be explored further.

Mr. Ogilvy commented that Park City Heights was not developed at the time this sewer was installed, so the manhole might be a storm drain. Mr. Ogilvy expressed that if that manhole was a sewer, he would have expected the district to direct them to connect to that location instead of the proposed location.

Chair Suesser asked Planner Sebright to explore the possible sewer location raised by Commissioner Johnson to evaluate whether they could avoid the disturbance of the Gambel oaks and the vegetation.

Commissioner Kenworthy pointed out that the General Plan gives the Planning Commission direction to protect primary residents and long-term neighborhoods, as well as nightly rental neighborhoods. Over the years, they have ended up with territorial definitions and separations for nightly rentals. He noted the significant history of defining those nightly rentals and primary residences by the territories. He added that this neighborhood was certainly a primary neighborhood that its' residents have invested in as such. He encouraged the applicant to try and work this out with the neighbors and expressed his opinion that the Commission would have the right to include a Condition of Approval and he would lean towards including that condition for this property.

Chair Suesser requested clarification on the grade of the driveway and the necessity for retaining walls. Given the length of the driveway and the fact that it would not be included in the Area of Disturbance, she felt that more details would be appropriate.

Mr. Ogilvy referenced the engineering drawings and offered his belief that they show driveway grades of 5% [poor audio] and cut and fill slopes, which were included within the Area of Disturbance calculation. He pointed out that the Area of Disturbance is approximately 2% of the 32 acres that make up this property. He noted that with respect to the 24 acres proposed to be dedicated to the City that are zoned Open Space, the property owner would be permitted the use of that property. By conveying this land to the City, they have an ability to enhance the trail network that would not be possible if it remained private land.

In response to an inquiry regarding the percentage area of disturbance on the 8.84 acres retained by the owner, Mr. Ogilvy calculated that to be 8%. Commissioner Hall expressed confusion as to why the applicant would not be part of the HOA and governed by the CC&R's. She would like further information supporting the position that this lot would not be governed by the CC&R's. It was noted that this parcel was intended to be a part of the HOA but was not included due to an oversight. She also felt that the Conditions of Approval for the ridgeline area would be appropriate and requested additional information to ensure that they were handling the ridgeline area correctly.

Commissioner Thimm suggested that they listen to the re-zone presentation and then discuss how to move forward on these applications.

There were no further public comments. Chair Suesser closed the public hearing and reserved Commission comments until after the presentation on the Fox Tail Trail Re-Zone Application.

MOTION: Commissioner Doug Thimm moved to continue the 3805 Fox Tail Trail Subdivision Application to December 8, 2021.

Commissioner Bill Johnson seconded the motion.

VOTE: Commissioner Johnson-Aye; Commissioner Hall-Aye; Commissioner Suesser-Aye, Kenworthy-Aye, Commissioner Thimm-Aye. The motion passed unanimously.

E. 3805 Fox Tail Trail - Rezone - The Applicant Proposes Reallocating the Estate and Recreation Open Space Zoning for Parcel PCA-S-98-SEC-11 to Create an 8.84-Acre Area in the Estate Zoning District for the Construction of a Single-Family Dwelling Outside of the Ridge Line Area and a 23.89-Acre Area in the Recreation Open Space Area to be Dedicated to Park City Pursuant to a Conservation Easement. PL-21-04865.

Planner Sebright reported that approximately three acres of the proposed subdivision were currently in the Estate Zoning District, with the remaining portion zoned Recreation and Open Space. He mentioned the protected ridgeline that terminates on this property. The applicant submitted a proposal for a zoning boundary adjustment to change the location of the Estate Zoning boundary so that it would encompass the proposed residence location and exclude the ridgeline. He presented a graphic of the proposed zoning boundary adjustment. He previously explained how the proposed re-allocation of Estate and Recreation Open Space would not impact trails. The next issue was whether the proposed re-zone would comply both with the zoning districts and the Sensitive Lands Overlay. He noted that the LMC and the General Plan define a series of ridgelines that are considered protected, and also designate a series of official vantage points from where development on or near the ridgelines should be evaluated.

Chair Suesser commented that she understood why neighbors felt this lot was considered unbuildable, since without this boundary adjustment, the lot would not be buildable due to the ridgeline. Planner Sebright believed that the annexation and subdivision of Hidden Meadows Phase One preceded the adoption of the ridgeline portion of the Sensitive Lands Overlay Ordinance. He stated that the LMC designates two vantage points from where the development is evaluated. One is the viewpoint from Treasure Mountain Junior High; the other is a turnout one-quarter mile from Highway 40, referred to as the "248 Vantage Point."

Planner Sebright explained that from the 248 Vantage Point, the applicant presented an image of the maximum permitted height of 33 feet above existing grade. The Sensitive Lands Ordinance intends to mitigate homes that extend above the ridgeline and protrude into the skyline. He stated that while the location of this home extends above a lower ridgeline, because there is a second ridgeline behind, it would not protrude into the skyline from either vantage point. Mr. Ogilvy clarified that the home would not be visible from Treasure Mountain Junior High.

Planner Sebright reported that this application went through the Development Review Committee, as well as utilities and other Park City Departments. The one Condition of Approval requested was to tie the existing sewer easement to the new proposed sewer line on Lot 25. This application also went before the Neighborhood Traffic Management Program and their conditions and recommendations were included in the Staff Report.

Planner Sebright reported that Staff found that the proposal complied with the Estate and Recreation Open Space Zoning Districts and Sensitive Lands Overlay as conditioned. The Conditions of Approval included dedication of a portion of the lot to the City pursuant to a conservation easement, and a requirement that the applicant to submit materials outlined in the Sensitive Lands review for Planning Director approval. He noted that Staff received comment from numerous members of the public, both in writing and during this meeting. He stated that Staff recommended that the Commission forward a positive recommendation for City Council's consideration.

In response to a question from Commissioner Thimm, Planner Sebright confirmed that this application did not involve a lot line adjustment. The boundaries of what was called Lot 26 were not defined, other than that they were beyond the limits of Hidden Meadows, Phase One. He clarified that the zoning boundary between the Estate and Open Space parcels would follow the ridgeline area and wrap around the proposed residence location.

Mr. Harrington clarified that any reference to the "Lot" refers to the preliminary lot designation, which was never carried forward. This is not a lot of record, rather it is two parcels; therefore, the statements that the parcel was not buildable because of Sensitive Lands were all assumptions. He stressed that the presumed difficulty of the original parcels is a red herring. The analysis of these parcels should be looked at as if these parcels were proposed in Phase Two. He stressed that the re-zone would not amend anything, and the proposal seeks to shift the zone line from one section to another as though it were being platted for the first time. He clarified that the only lines being shifted would be the zoning lines, which were established when the land was annexed into the City. There was never a subdivision plat establishing a lot within that area. In response to an inquiry from Commissioner Thimm, Planner Sebright believed that the Ridgeline Ordinance was enacted after the zone line was established but stated that he would have to do further research to confirm.

Commissioner Thimm stated that the timing would be important to him to understand whether a change in ordinance for the ridgeline imposed a zone line restriction that made a parcel unbuildable. Mr. Ogilvy understood that the Sensitive Lands Ordinance was adopted in approximately 2001, which was after the plat. The ridgeline area showed up in the General Plan, therefore he was fairly certain that the ridgeline area did not exist in 1995 when this was platted. Commissioner Thimm reiterated his request for information regarding the timing.

Commissioner Johnson asked Staff to go back to Snyderville Basin Water Reclamation District to evaluate alternative solutions to the sewer location.

Chair Suesser opened the public hearing.

Randy Johnston reported that he received the information regarding whether Lot 26 was buildable from Planner Sebright, who said that the original Lot 26, as contemplated, could not be built upon. He read the proposed zoning map amendment as showing 10% of the property within the Estate Zoning District, which he assumed was the only area that could be built upon and was the original Lot 26. He confirmed that he has never seen a plat. Mr. Johnston stated that there were multiple references to what he interpreted to be Lot 26, which could have been annexed into the HOA as a lot of either 3 or 4 acres. He also assumed it was unbuildable due to the ridgeline restriction and the power line easement that runs through it. He explained this to the extent that his comments might have caused confusion.

Bill Ligety identified himself as the husband of Cyndi Sharp, and the owner of Lot 25. He restated that the neighborhood would bear all of the impacts of anything that gets developed on this property. When he and his wife purchased the property, their expectation was that any house built on that property would be consistent with the architectural design and use of the neighborhood.

He respected the rights of the owner; however, asking for a zone change would be entirely inconsistent with the neighborhood. It would be like putting a hotel at the end of a quiet cul-de-sac. Mr. Ligety commented that the applicant seemed resistant to the idea of any kind of

restrictions that would make the property fit in with the neighborhood. He concluded that a change of zoning to enable that would not be appropriate. He felt that the zone change would enable a much more intense use than was ever contemplated in the CC&R's and certainly beyond any use when they purchased their property. Mr. Ligety suggested that there was more work that could be done before this application would be ready for any sort of action by the Planning Commission.

James Letchford echoed the comments of Mr. Ligety and stated that re-zoning this property would turn this into a hotel-like structure. After hearing Mr. Ogilvy's comments that the applicant would not be open to becoming a part of the HOA, the intent for this property is clear. He stated that the entire Hidden Meadows neighborhood has a minimum rental requirement of one year. Zoning this for otherwise would be a step in the wrong direction.

There were no further public comments. Chair Suesser closed the public hearing.

Commissioner Thimm stated that further information is needed and suggested that the item be continued. He would like to understand when the ridgeline ordinance was enacted on this property in comparison with the establishment of the adjacent subdivision. He also would like to know if there is a legitimate sewer service that could be installed without disturbing the Gambel oaks that exist on the property.

Commissioner Thimm stated he would not be in favor of any sort of positive recommendation without a Condition of Approval prohibiting nightly rentals. Commissioner Hall agreed with Commissioner Thimm's comments. She commented that everything should be cohesive and felt that any expiration in the CC&Rs would have been more of an option. She referenced the Annexation Agreement stated that the property would be part of a HOA. Commissioner Hall agreed with a continuance of this matter.

Commissioner Johnson stated that both applications should be continued. Commissioner Kenworthy agreed with the statements of the other Commissioners. He was troubled by the non-conformity that the applicant seemed to be pushing, knowing that the community was planned and did not have an exemption for that lot. He saw this as something that slipped through the cracks and wanted to find a solution where it would remain in conformity with the original intention of the development. Chair Suesser agreed with the comments of the Commissioners.

Planner Sebright stated that they could follow up with Snyderville Basin regarding the requested information regarding sewer alternatives. They could also obtain the historical information regarding the annexation and adoption of Sensitive Lands fairly quickly and suggested that this matter could be continued to a date certain. There was discussion regarding the agendas for upcoming meetings. Planning Director Milliken stated that there will be only two Planning Commission meetings in November and two in December due to the holidays. She suggested the December 8, 2021, meeting.

MOTION: Commissioner Doug Thimm moved to continue the 3805 Fox Tail Trail Zone Map Amendment to December 8, 2021.

Commissioner Sarah Hall seconded the motion.

VOTE: Commissioner Johnson-Aye; Commissioner Hall-Aye; Commissioner Suesser-Aye, Kenworthy-Aye, Commissioner Thimm-Aye. The motion passed unanimously.

F. 7805 Royal Street - Zone Change - The Applicant Proposes a Zone Change for Parcel PCA-1200-4-X, from Estate (E) to Public Use Transition (PUT). PL-21-04913

Planner Cawley announced that the applicant representative, John Shirley, AIA and Fire Chief Bob Zanetti, joined him. He explained that 7805 Royal Street is home to Fire Station No. 34 in the Upper Deer Valley area. The parcel is less than one-quarter of an acre zoned Estate and is surrounded by a Residential Development Zone. When Deer Valley was zoned to Residential Development in the 1980's, this parcel was not re-zoned. He stated that the use, size and setbacks of this parcel were inconsistent with the Estate Zoning District. The applicant requested a re-zone to a Public Use Transition Zoning District to accommodate planned expansion.

Planner Cawley reported that the current structure is to be replaced to accommodate the growth in Upper Deer Valley. The station would require additional personnel, and the new space would accommodate up to six firefighters and larger fire apparatus. The expansion of essential municipal public facilities and structures within the Estate Zone is a conditional use. He explained that in 2002, the Board of Adjustment approved a variance allowing the Park City Fire District to expand and encroach into the setbacks. Also in 2002, the Planning Commission approved a Conditional Use Permit allowing the expansion of essential municipal and public facilities.

Planner Cawley explained that the proposed rezone will allow for the expansion of a permitted use, as opposed to a conditional use. The proposal to rezone this parcel would ensure compliance with the Public Use Transition Zoning District requirements, as well as the Sensitive Lands Overlay Zone. He referenced the Staff Report that included a comparison of allowances in the Estate Zone and the Public Use Transition Zone. He highlighted the comparisons of density, setbacks, and maximum building height. With respect to building height, the Public Use Transition Zone requires a 45' measurement from existing grade, and a height of 30' at the front of the lot line that proceeds at a 45-degree angle towards the rear of the property until it intersects with a point 45' above natural grade.

Planner Cawley stated that the 12th Amended Deer Valley MPD height limitation is 64 feet. He reported that the tallest buildings surrounding this parcel were 64' and the shortest were 35 feet. The proposed fire station would not exceed 30 feet in height. He presented a rendering that depicted the proposed expansion of the structure. He stated that this proposal complied with the General Plan, specifically in terms of meeting Small Town Goal No. 1. The proposal would allow for community input for future development of the parcel through a public CUP review process.

The proposal also meets the Natural Setting Goals Nos. 10 and 14. He explained that the future remodel and expansion would be held to the standards established in the Sensitive Lands Overlay, allowing development in a manner that encourages the preservation of Park City's environment and unique urban scale. Although good cause is not a requirement for a zoning amendment, Planner Cawley spelled out the good cause, noting that it was tied to a Condition of Approval in that Staff has encouraged the applicant to complete a plat amendment to create one lot of record. This would ensure that future development would be kept within the approved setbacks.

He stated that the proposed zone change complies with the Sensitive Lands Overlay. One of the purposes of the Sensitive Lands Overlay is to prohibit development on ridgeline areas, steep slopes and wetlands, and this parcel meets all of those requirements. He added that the Public

Use Transition Zoning District will ensure that development complies with these requirements moving forward.

Planner Cawley reported that the Development Review Committee did not identify any issues with this re-zone. The application was also reviewed by Planning, Engineering and Legal Departments, who likewise did not identify any issues. Public notice was provided on the Utah Public Notice website, and the property was noticed on September 29, 2021, with courtesy mailings to owners within 300 feet on the same date. Notice was also placed in *The Park Record* on September 29, 2021. He reported that Staff did not receive any public input on this proposal.

Staff recommended that the Planning Commission consider this application for re-zone, conduct a public hearing and consider forwarding a positive recommendation for the City's Council's consideration on October 28, 2021.

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

Chair Suesser referenced Condition of Approval No. 5. Planner Cawley stated that the Draft Ordinance states that prior to completing any upgrades to the existing structure, the applicant shall complete a plat amendment to create one lot of record.

MOTION: Commissioner John Kenworthy moved to forward a positive recommendation for City Council's consideration on October 28, 2021, for the Park City Fire District Station No. 34, Parcel No. PCA-1200-4-X from Estate to Public Use Transition, subject to the Findings of Fact, Conclusions of Law and Conditions of Approval as follows:

Findings of Fact

1. The property contains 0.17 acres and is currently zoned Estate (E).
2. The Parcel is identified by Summit County as PCA-1200-4-X.
3. The Applicant proposes to rezone the Parcel from the Estate Zone to Public Use Transition Zone to accommodate planned expansion of the current Use and ensure compatibility with future Public Use.
4. The Parcel is located in the Sensitive Lands Overlay and will comply with the regulations of Land Management Code Chapter 15-2.21.
5. Under the Land Management Code, expansion of essential municipal public facilities and structures in the Estate Zone are Conditional Uses, which require review by the Planning Commission.
6. The Applicant's proposed Zone Change to Public Use Transition will allow the expansion of these public services as a Permitted Use.

Conclusions of Law

1. There is Good Cause for this Zoning Map Amendment.

2. The Zoning Map Amendment request is consistent with the Park City General Plan and the Park City Land Management Code, including Section 15-1-7(2).
3. The Zoning Map Amendment is consistent with applicable state law.
4. The Zoning Map Amendment furthers the purposes of UCA § 10-9a-102(1).

Conditions of Approval

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the Zoning Map Amendment for compliance with State Law, the Land Management Code, and the Conditions of Approval.
2. Park City Fire District shall request the Board of Adjustment to modify the 2002 Variance approval if the proposed plan does not meet the approved Setbacks.
3. The building height will comply with the Public Use Transition zoning district and will not exceed the height of surrounding structures.
4. Prior to submitting a building permit application to construct a new Fire Station within the Public Use Transition Zoning District, the Applicant must submit the materials outlined in Land Management Code Section 15-2.10-6, Sensitive Lands Review, subject to Planning Director Approval.
5. Prior to completing any upgrades to the existing structure, the Applicant shall complete a Plat Amendment to create one Lot of Record for parcel PCA-1200-4-X.

Commissioner Doug Thimm seconded the motion.

VOTE: Commissioner Johnson-Aye; Commissioner Hall-Aye; Commissioner Suesser-Aye, Kenworthy-Aye, Commissioner Thimm-Aye. The motion passed unanimously.

G. 3099 Mountain Ridge Court - Plat Amendment - The Applicant Proposes to Amend the Mountain Ridge Subdivision Plat to Modify the Limitations on Building Height and Maximum Floor Area. PL-21-04950

Planner Cawley noted that the applicant, David Maya, requested a continuance and requested that he confirm that request. Mr. Maya requested a continuance so that his architect could attend. There was discussion regarding a date certain for the continued hearing.

Chair Suesser opened the public hearing. There was no public comment. Chair Suesser closed the public hearing.

MOTION: Commissioner John Kenworthy moved to continue the 3099 Mountain Ridge Court Plat Amendment to the October 27, 2021, Planning Commission Meeting.

Commissioner Doug Thimm seconded the motion.

VOTE: Commissioner Johnson-Aye; Commissioner Hall-Aye; Commissioner Suesser-Aye, Kenworthy-Aye, Commissioner Thimm-Aye. The motion passed unanimously.

8. ADJOURN

MOTION: The meeting adjourned at approximately 11:00 p.m.

APPROVED 11.10.2021