



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
October 12, 2022**

COMMISSIONERS IN ATTENDANCE: Chair Laura Suesser, John Kenworthy, Sarah Hall, Bill Johnson, Christin Van Dine (attended virtually), John Frontero; Henry Sigg

EX OFFICIO: Gretchen Milliken, Planning Director; Rebecca Ward, Assistant Planning Director; Caitlyn Tubbs, Senior Historic Preservation Planner; Lillian Lederer, City Planner; Spencer Cawley, City Planner; Jaron Ehlers, City Planner; Mark Harrington, City Attorney

1. ROLL CALL

Chair Laura Suesser called the meeting to order at approximately 5:30 p.m. She reported that all Commissioners were present with the exception of Commissioner Christin Van Dine, who joined the meeting later.

2. MINUTES APPROVAL

There were no minutes for approval.

3. PUBLIC COMMUNICATIONS

There were no public communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Planning Director, Gretchen Milliken reported that Assistant Planning Director, Rebecca Ward, planned to update the Commission on the Land Management Code ("LMC") Amendments. She noted that the Commission was provided with the Staff Communication that included the schedule for next year. Assistant Director Ward was on a flight and unable to log in, but was expected to join the meeting later in the evening.

Director Milliken offered to present the Staff Communication and welcomed newly appointed Planning Commissioner, Henry Sigg.

A. 2022 - 2023 Land Management Code Amendment Schedule and Commission Liaisons,

Director Milliken stated that she would identify the Commission Liaisons for the different priorities for 2023 to see if one was a good fit for Commissioner Sigg. Staff would return with more detail regarding the 2023 schedule in January.

In terms of specific topics for LMC Code Amendments, the Commission would be looking at the Winter Balcony Enclosure Pilot Program as well as the Landscaping Updates at this meeting. A public hearing on the Landscaping Updates would be held on October 26, 2022. A Work Session scheduled for November 9, 2022, would address the Sensitive Land Overlay. The Commission Liaison for the meeting would be Commissioner Bill Johnson. She explained that the Commission Liaison would meet with Staff before the meetings.

Also on November 9, 2022, they would address Accessory Uses in Master Planned Developments ("MPD"), for which Chair Suesser would act as the Commission Liaison. She reported that the November 23 meeting was canceled as it is the day before Thanksgiving. On December 14, 2022, there will be a Work Session on Secure Bicycle Parking Requirements with Commissioner Van Dine serving as Commission Liaison. The public hearing on the Sensitive Land Overlay was scheduled for December 14, 2022.

Staff outlined a number of priorities for 2023 and the Commission Members who elected to act as Commission Liaison for those priorities. She recapped the priorities as follows:

- Incentivizing affordable housing development and amending Transfer of Development Rights, with Commissioner John Kenworthy and Commissioner Johnson serving as Liaisons;
- Encouraging sustainability, on which Commissioner Sarah Hall and Commissioner John Frontero would serve as Liaisons;
- Improving transit, trail, and active transit connectivity would have Commissioner Van Dine as the Commission Liaison;
- Evaluating lot combinations in the Historic Districts, with Chair Suesser and Commissioner Frontero serving as Liaisons; and
- Transportation Demand Management and Traffic Impact Studies, with Commissioners Hall and Kenworthy serving as Liaisons.

Director Milliken invited Commissioner Sigg to consider which priorities he might be interested in serving as a Liaison.

She listed the following issues that the Planning Commission requested Staff to schedule for review:

- Excavation limits;
- Evaluation of steep slope standards citywide;
- Review of the Conventional Chain Businesses and vibrancy ordinances; and
- Final action review and efficiency, and whether some items normally presented to City Council could end at Planning Commission review so that it does not go through a double review.

Director Milliken presented the 2023 Meeting dates where they would schedule at least one hour dedicated to LMC work. She observed that this work would occur in one meeting per month.

Commissioner Kenworthy asked Senior City Attorney, Mark Harrington, if it was important to prioritize Conventional Chain Business and vibrancy ordinances. He noted that the rumor on

the Historic Park City Alliance (“HPCA”) was that they have filled the last spot so he wanted to ensure that they were up to date on that as a priority now that the number of chains has hit the maximum limit.

Mr. Harrington responded that prioritization would be within the prerogative of the Planning Commission. He was unclear whether the intent was to further restrict, clarify restrictions, or expand to allow more Chain Businesses. He observed that if they were looking to expand, then prioritization might be more acute since they have reached the limit. On the other hand, if the request was for an update on how it was working and to look at any adjustments, it might not be as acute in terms of priorities. Mr. Harrington did not feel it was any more acute from a Staff perspective but stated that he was unsure of the Commission’s initial interest in terms of the original prioritization. He reiterated that it was up to the Commission as to whether it wanted to prioritize this issue ahead of something like lot combinations or the issues faced in existing MPDs such as support commercial.

He explained that if the Commission was seeing votes of 3-to-2, lack of clarity, or difference of perspective between applicants, the public, and the Commission and Council, those would be the areas that would seem most ripe for prioritization. He felt that general cleanup or adjustments would be more secondary in terms of priority.

Commissioner Kenworthy noted that this could become a contentious issue, and wanted to ensure that there was an understanding of what the ordinances are now and that they have hit the threshold. He understood that once they hit that limit, which they have done on the upper portion of Main, national chains will no longer be allowed on the street level at Sundance. Commissioner Kenworthy observed that this was a very current issue that would likely come before the Commission.

Chair Suesser asked if Commissioner Kenworthy’s conclusion was accurate. Mr. Harrington stated that national chains would not be allowed on the street level at Sundance if they were not within the Sundance venue. He mentioned that third-party “ambush” vendors would be subject to the same rules as anyone else on the street; therefore, if they are “at capacity,” they could not take up extra spots. Mr. Harrington added that the ordinance is in place, and while someone could challenge that, he did not foresee this to be something that would be part of the Commission’s day-to-day workload. In terms of providing the Commission an update on how the ordinance was working, the Commission could decide its prioritization.

Commissioner Hall preferred that the Commission look at a holistic approach to Main Street and not just focus on the Chain Store limit. She felt they should look at it as a package with vibrancy ordinances. She would not be in favor of expanding the limit.

Chair Suesser was interested in hearing from Main Street business owners, landlords, and the community about the response to the introduction of Chain Businesses on Main Street. She felt that input from these groups would be helpful and she looked forward to the Work Session on that topic.

Commissioner Hall agreed and added that it should encompass the several components of Main Street, including the definitions for the First Floor, Second Floor, and the back. Chair Suesser noted that this priority included vibrancy ordinances, but noted that Chain Businesses were the big issue people talk about. Commissioner Hall added that it went further and referenced the Agenda Item for tonight’s meeting about permanent tents and summer parking.

She reiterated her belief that it should be a holistic overview of everything related to the Historic District and Main Street. Chair Suesser agreed.

Chair Suesser asked Commissioner Kenworthy if he felt this topic should be low on the priority list, or wait to weigh in when discussing the specific schedule for discussion. Commissioner Kenworthy felt it was important that the Commission understand the guidelines and commented that it would involve issues that the City would deal with, given that Sundance would probably come back with a bang and the City was looking forward to supporting it. He agreed that it would be good to put this issue on the calendar for January so that they could get an understanding. Chair Suesser asked Director Milliken to put this on the calendar as soon as possible.

Commissioner Hall asked to be included as a Liaison for active transportation. She also volunteered to add herself to some of the topics scheduled for the remainder of 2022 and noted specifically the Accessory Uses and MPDs and/or Secure Bicycle Parking Requirements.

Chair Suesser offered to take Commissioner Hall's spot on the Traffic Demand Management and Traffic Impact Studies. She added that Commissioner Sigg might be interested in joining her on the Accessory Uses and MPDs. Commissioner Sigg stated he would be happy to join that topic. It was clarified that Support Commercial was included in the Accessory Uses discussion.

Commissioner John Frontero offered to join Commissioner Johnson on the Sensitive Land Overlay work in 2022.

Commissioner Hall offered to join Commissioner Van Dine on Secure Bicycle Parking Requirements in 2022, as well as on active transportation in 2023. She confirmed that Chair Suesser would take her spot for Transportation Demand Management.

Chair Suesser noted that they are not limited to two Liaisons per topic and invited Commissioner Sigg to join any topic that interested him.

Chair Suesser disclosed that she is currently working for Summit Land Conservancy and Rory Murphy, who is an applicant tonight, is on the Board of the Conservancy. She expressed her belief that this did not create a conflict of interest.

5. CONTINUATIONS

A. 1251 Kearns Boulevard -- Conditional Use Permit -- The Applicant Proposes Constructing an Addition to The Blind Dog Restaurant in the Frontage Protection Zone, Modifying the Parking Area to Increase Parking, and Creating Shared Parking with 1351 Kearns Boulevard. PL-22-05240.

Director Milliken explained that the applicant requested a continuance to gather more information and allow for further study. For similar reasons, a continuance was requested for the next Agenda Item, 1351 Kearns Boulevard.

Chair Suesser questioned the impact of the Conditional Use Permit on the Homestake Project, if any, and asked if there was any overlap. Director Milliken stated that it would be best to look at it when it comes back in front of the Planning Commission. She noted there is always the

potential for overlap with neighboring properties; however, she felt that it was one of the reasons for the requested continuation.

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

MOTION: Commissioner Johnson moved to CONTINUE 1251 Kearns Boulevard—Conditional Use Permit Application to a date uncertain. Commissioner Hall seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Van Dine was not present for the vote.

Commissioner Van Dine joined the meeting.

B. 1351 Kearns Boulevard -- Conditional Use Permit -- The Applicant Proposes Enlarging the Parking Area in the Frontage Protection Zone and Shared Parking with 1251 Kearns Boulevard. PL-22-05296.

Director Milliken reiterated that the applicant requested a continuance to gather further information.

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

MOTION: Commissioner Johnson moved to CONTINUE 1351 Kearns Boulevard—Conditional Use Permit Application to a date uncertain. Commissioner Hall seconded the motion.

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

6. WORK SESSION

A. Temporary Winter Balcony Enclosure Pilot Program – The Planning Commission Will Review the Temporary Winter Balcony Enclosure Pilot Program that Allows for Non-Historic Balconies in the Historic Commercial Business District Facing Main Street to be Enclosed from November 15 through April 30. The Pilot Program Will End in 2023 and May Require Amendments to the Land Management Code.

Senior Historic Preservation Planner, Caitlyn Tubbs, reported that the Temporary Winter Balcony Enclosure Pilot Program began a few years ago to allow for the temporary seasonal enclosure of outdoor balconies on non-historic buildings along Main Street. She confirmed that the program was in response to COVID-19 and the desire for people to be separated and outside as much as possible. Planner Tubbs stated that the pilot program was initially developed for building owners who do not have a historic balcony or patio or the ability to utilize the sidewalk during the summer months. It allowed these owners to compete with other businesses that have those features. Beginning in 2014, a member of the community approached the City Council and recommended the creation of a pilot program to allow for balcony enclosures. The City Council held a Work Session and directed Staff to prepare standards and processes for the program.

Following input from the Historic Preservation Board ("HPB"), the Planning Commission forwarded a negative recommendation to the City Council on the creation of this pilot program; however, in 2016, pursuant to Ordinance No. 16-01, the LMC was amended to allow for the temporary enclosure of these balconies.

Planner Tubbs reported that it was revisited in 2019 when the pilot program was extended for an additional five years. The pilot program is currently scheduled to expire next year. She reported that so far, only one business along Main Street, Riverhorse on Main, has utilized the provisions in the Code for a Temporary Winter Balcony Enclosure. She noted that Main Street is listed on the National Register of Historic Places and the boundary of that designation was expanded because the City has a rich history and strong character.

Planner Tubbs commented that Riverhorse on Main is a non-historic building on Main Street. It is an in-fill building that did not have to meet the same Design Guidelines that apply to historic buildings that undergo repairs or alterations. The building was designed to fit in with Main Street, per the Historic Design Guidelines, but she stressed that the Design Guidelines for Historic Structures and the Design Guidelines for new construction or in-fill structures are different. Planner Tubbs presented photographs showing how Riverhorse on Main looked prior to the enclosure of the balcony as compared with how it looked after enclosure.

Chair Suesser asked if there was an extension out into Main Street before they enclosed the balcony. Planner Tubbs responded that the extension was in front of Riverhorse on Main. She added that Riverhorse on Main eliminated the seating on the street when they enclosed the balcony. In response to an inquiry, Planner Tubbs stated that the owner could have seating areas on both the street and the balcony, but there was a seasonality component in that the balcony enclosure was permitted from Fall through Spring, and expansion into the public right-of-way would be allowed by permit during the summer.

Commissioner Kenworthy stated that Pizza Noodle occupies the street-level deck. He reported that when he was Chair of the HPB, the owner of Riverhorse on Main wanted to enclose the balcony because he did not have the opportunity to use the street since the first-floor tenant was using it. Additionally, the owner had previous approval for the tent, which he would have to remove every six weeks.

Mr. Harrington explained that the enclosure replaces the tent and was not directly related to COVID-19 or the downstairs tenant. Commissioner Kenworthy added that in 2014, the HPB sent a positive recommendation on the pilot program to City Council. Riverhorse on Main was a rare case and no one else has used the pilot program.

Chair Suesser asked if the ordinance applied only to balconies on Main Street. Planner Tubbs confirmed that was the case and added that it only applies to balconies on non-historic structures along Main Street.

Planner Tubbs addressed Staff's concerns and reported that from the program's inception, Staff reviewed other communities where enclosures were permitted and the effects on the historic fabric of the community. Based on that review, as well as a review of the LMC, Staff had concerns that the Winter Balcony Enclosures would have the potential to detract from the overall western architectural appearance of Main Street and affect the historic character of the National Historic District. Staff also expressed concerns regarding the changes in overall shape, roof design, projections, recesses, solid-to-void ratios, and other architectural features.

These changes have the potential to change the visual character of the original building and the street network as a whole.

Additionally, the balconies provide a strong rhythm to the pedestrian experience along Main Street and lend themselves to the creation of a strong street wall. Therefore, Staff was concerned that enclosing the balconies would break up the pedestrian experience and the street wall. Planner Tubbs explained that the attachments of the enclosure panels or other structures for the enclosure might damage historic buildings, features, or materials. She referenced the photographs of Riverhorse on Main and pointed out that the edges of the panels were connected to the neighboring buildings, which are Landmark Structures. As a result, Staff had concerns about the methods that might be utilized in the installation and removal of these panels and the effects on the neighboring historic materials.

Planner Tubbs explained that Staff was looking for feedback from the Boards and Commissions before the pilot program expires. Staff held a Work Session with the HPB on September 7 and received feedback generally in support of continuing the program and allowing the ongoing Temporary Winter Balcony Enclosures on Main Street. The HPB did not support allowing for the expansion of this program to allow for a more permanent or year-round enclosure. The HPB expressed an interest in reviewing some Design Guidelines that Staff could utilize for prospective applicants under this ordinance to help the enclosures fit in with the Historic District.

Chair Suesser asked how many balconies on Main Street could be enclosed under the pilot program. Planner Tubbs estimated that less than six buildings could potentially qualify for a Winter Balcony Enclosure. Chair Suesser stated that it would be helpful to know the impact of extending the program, which would include understanding how many possible enclosures could be installed along Main Street.

Commissioner Sigg asked if Balcony Enclosures included the dining pods they see around town. Planner Tubbs reported that the Balcony Enclosure is a full structural element, whereas the individual dining pods would fall more under the purview of a tent. Additionally, in response to Commissioner Sigg's inquiry, she stated that Balcony Enclosures include rooftops, and are more than just overhanging balconies on Main Street. She noted that Balcony Enclosures were not to expand beyond the footprint of the balcony, but they included walls and roofing material.

Chair Suesser mentioned the roofs at the Sky Lodge and the Old Kimball Arts Center. Commissioner Hall noted that those were not on Main Street, but mentioned Wasatch and Spur, which are on Main Street. She joined in Chair Suesser's question about the number of properties that would be eligible under the pilot program.

Planner Tubbs confirmed that the Old Kimball Arts Center would not be eligible under this program because it is not located on Main Street.

Commissioner Kenworthy sought confirmation that the dates these Balcony Enclosures could be up were from November 15 through April 15. Planner Tubbs confirmed the dates and that the Balcony Enclosure must be removed in the spring. Commissioner Kenworthy understood that the Temporary Winter Balconies could be allowed for winter use, whereas businesses previously used tents that would be removed. He asked if the Tent Ordinance was still in effect and noted that the Riverhorse on Main was utilizing the Tent Ordinance. He added that they did a lot of design work on the Riverhorse Balcony Enclosure to try and make it work. In addition,

he did not believe that any of the balconies that extend over the sidewalk, such as at the Flanagan's Building, would be eligible for this program.

Mr. Harrington reported that there are three buildings on Main Street, inclusive of Riverhorse, that are eligible for a Winter Balcony Enclosure under this pilot program. He explained that only two other properties qualify because the restaurant space needs to be directly adjacent to the upper-story deck. As of the time of the last Staff Report, the only other properties that met the criteria, in addition to Riverhorse, were Wahso and 501 Main. Staff would confirm whether there had been any changes since the last Staff Report.

Chair Suesser was surprised that the Spur was not on that list. Commissioner Kenworthy noted that it had probably been added. Mr. Harrington reiterated that Staff would confirm any new developments since the last report. Chair Suesser commented that Riverhorse had taken advantage of this program and was looking for the City to extend it despite the fact that they violated the terms of the program by leaving their structure up all summer. Planner Tubbs confirmed that under this program, the structure is supposed to be removed each year, and there was an agreement entered into with City Council that reiterates that requirement. Her understanding was that Riverhorse did not obtain an agreement to keep the Balcony Enclosure up during the summer months but would verify this fact.

Mr. Harrington commented that there may have been a COVID-19 extension at some point and Riverhorse requested that the Balcony Enclosure remain pending their request to extend the program beyond the seasonal requirement. He noted there might be a stay in enforcement pending a seasonal extension. He did not believe that the fact that the balcony was still up should be part of the Commission's consideration of the extension of the pilot program as a whole.

Commissioner Johnson asked if the alternative for these businesses would be a tent application should the Winter Balcony Enclosure program expire. Planner Tubbs stated that would be an option along with the option of petitioning the City Council to enact another ordinance amendment that would allow for some other type of enclosure.

Chair Suesser recalled the tipi discussion they had last year and stated that they were allowed to be up for a continuous six months. Mr. Harrington explained that different regulations depend on structures, where they are located, and their purpose. He confirmed that there are different requirements for yurts and tipis that can fall under a 180-day rule, adding that the Code had been modified to become more permissive in some situations, and more restrictive in others.

Commissioner Hall asked why the pilot program only applies to Main Street. She stated that her initial reaction was that she would prefer to see the enclosures on Swede Alley rather than Main Street. She felt this would allow for increased capacity, while not taking away from the historic nature of Main Street. Planner Tubbs responded that the pilot program applied to Main Street because a business owner on Main Street suggested it to City Council. Chair Suesser understood that Shabu was the only business on Swede Alley with a rear balcony. Commissioner Hall also mentioned Purple Sage.

Commissioner Hall was in favor of continuing the pilot program off of Main Street and mentioned the vibrancy ordinance and the efforts to preserve the historic feel on Main Street. In response to an inquiry from Chair Suesser, Planner Tubbs stated that this program applies only to second-story balconies, and did not apply to rooftop balconies or ground-floor decks.

Commissioner Frontero liked the idea of a tent better than an enclosure and wondered about the basis for the provision allowing tents to be up for six weeks and taken down for one week. He asked if that could be amended. Mr. Harrington stated that it probably could be amended, but noted that these are balancing decisions, which explained the split decisions on these programs. He added that some of the debate was picking the lesser of two evils and selecting the option that is the least obtrusive.

Mr. Harrington added that tents have different pragmatic challenges in terms of snow shedding, dripping, maintenance, safety, and heat. With regard to street-level decks, part of the discussion involved weighing the interests and deciding what was worth accommodating temporarily to allow increased flexibility. The Commission was being asked if these temporary design impacts were worth a temporary exception, or whether the impacts of the pilot program are observable and adverse on the street façade.

Commissioner Frontero mentioned that this program only affects three to four restaurants and only one had taken advantage of it. He also noted that Riverhorse did not remove the temporary structure during the summer months and it has been up continuously for approximately three years. He felt it was clear that the program was not working as it was intended, so he would be hard-pressed to vote to continue it as it currently exists. He felt that if there could be some changes, it might make sense to continue it.

Planner Tubbs next addressed the specific questions for the Commission, the first being whether the Commission supported the continuation of allowing Balcony Enclosures along Main Street. Commissioner Johnson did not support the continuation of the program and agreed with the Staff Report. He felt that the structures will impact the adjacent Historic Structures and the façade of the street, and have an adverse impact on Historic Main Street.

Commissioner Kenworthy supported Balcony Enclosures in 2014-2015 and continued to support them. He agreed that the Balcony Enclosure at Riverhorse should come down and there should be better oversight over taking it down and looking into how it affects the adjacent buildings. He supported the continuation of the pilot program and felt that the restaurant was in a unique situation.

Commissioner Frontero did not support continuing the program. Commissioner Hall stated she would be open to continuing to discuss Main Street but would support this program for off-Main Street businesses. While she wanted to support Main Street businesses, she would also like to preserve the historic nature of Main Street.

Commissioner Sigg felt that the current enclosure adds a Star Wars effect and it would be important for Balcony Enclosures to be better defined. He stated that the structure adds an architectural element but perhaps they should remove the Plexiglas. He would not support the Balcony Enclosure in its current state but indicated that awning enclosures may warrant consideration. He was concerned with the fact that this program was only in existence for one person, and, in general, he did not support Balcony Enclosures.

Chair Suesser stated she would be in support of continuing the pilot program during the winter months but would like to see enforcement of the requirement to remove the Balcony Enclosures during the spring, summer, and fall months.

Commissioner Van Dine agreed with discontinuing the pilot program, noting that not enough people are taking advantage of it. She added that if the enclosures become anything more than temporary, there should be better compliance with the Design Guidelines for Main Street. She felt that the glass enclosure was obtrusive looking and does not preserve Historic Main Street. She added her support to Commissioner Hall's suggestion of looking at other locations for this program other than Main Street.

Planner Tubbs asked the Commission if they would be in support of expanding the Balcony Enclosure Program to allow for a permanent or year-round balcony enclosure. The Commission unanimously answered in the negative.

Planner Tubbs next asked which standards, if any, Staff should include in future Balcony Enclosures for the updates to the Historic District Guidelines. Chair Suesser stated that there should be a prohibition against attaching these Balcony Enclosures to historic buildings. Mr. Harrington clarified that the program does not apply to historic structures. Commissioner Johnson referenced the prior statements that the existing Balcony Enclosure is connected to two historic buildings. He added that his review of the minutes from the Planning Commission meeting at the time showed that the then-Chair could not speak on the Design Guidelines based on a lack of specific expertise in that area.

Commissioner Kenworthy agreed and stated that he knows what the tents look like. He suggested the Commission look at the Tent Guidelines on Main Street if they wish to toe-the-line for historic preservation. He understood the economic impact and that the driver is historic preservation.

In response to Chair Suesser's question to Commissioner Kenworthy as to whether he was joining the majority of the Commission in voting against extending the pilot program, Commissioner Kenworthy stated that he was not. He felt they had done a lot of work on it and the compromise they reached was because of the Tent Ordinance and the energy and sustainability factors on these limited number of buildings that could use the Enclosure Pilot Program. He understood the other side as well.

Chair Suesser added that while an enclosure may detract from the historic presence on Main Street, the diners who use the enclosure could take in the historic elements and enjoy the historic significance of Main Street. She felt that part of the reason the restaurant wants the enclosure is because Main Street is such a special view and place to sit and dine, and their patrons are appreciating that. The balcony might not be as appealing to those walking on the street, but she felt there was some value in having people enjoy Main Street from that vantage point during the winter months.

Commissioner Johnson understood Chair Suesser's point but disagreed and felt that the Riverhorse already has a wonderful dining experience in the winter, even without the balcony enclosure.

Commissioner Frontero deferred to the other Commissioners on the issue of potential Design Guidelines. Commissioner Hall wanted to make sure that it looks consistent. With regard to the Riverhorse temporary structure, she felt it did not look like a part of the overall structure. She also agreed with Commissioner Kenworthy's suggestion of revisiting the Tent Ordinance.

Commissioner Sigg felt it would be important to see Design and Material Standards imposed so that they could see in advance what the enclosure would look like and tie it into the current structure to the extent possible. He reiterated his prior comment about awnings versus a structure with glass and stated that an awning that could be enclosed would be a temporary appurtenance to the building without taking on a structural element.

Planner Tubbs asked if there would be additional factors to be considered if the Program continued, such as fees for increased parking and utility demands. Chair Suesser noted that the majority of the Commission weighed in against continuing the Program, but invited feedback from the Commissioners in the event the City Council did not agree with the Planning Commission's position. Commissioner Johnson would not be in favor of fees for increased parking because the capacity would be the same year-round if they have the structure already erected. In terms of utility demands, he would support additional fees and noted there was also a penalty fee for non-compliance, which should be imposed especially in light of the current situation.

Commissioner Kenworthy observed that utility demands are much higher with a tent, so he would not support fees for either increased parking or increased utility demands. Commissioner Frontero also would not support fees and stated that they could not convince any other restaurants to even take advantage of this program, so adding fees did not make sense to him.

Commissioner Frontero felt that they ought to encourage the restaurants to use this program if it were to be reinstated, and not disincentivize them with fees.

Commissioner Hall supported a penalty for non-compliance. Commissioner Sigg agreed with the penalty and suggested that fees be looked at as part of the Building Permit fee or Business License Fee based on increased square footage capacity. He felt that heating and utilities were related more to the tents or awnings, and the onus would be on the individual owners and their usage of space heaters. He would not support a fee for increased parking. Commissioner Johnson stated that he changed his position on a fee for increased utility demand. Chair Suesser agreed with imposing penalties for violations.

Planner Tubbs thanked the Commissioners for their feedback and stated that Staff would return with more information as the project develops. Commissioner Hall asked when Staff anticipated returning to the Commission, and Planner Tubbs stated it would likely not be for a few months.

Commissioner Hall requested that Staff follow up on the request to identify which businesses this would apply to, and follow up on the request to re-visit the Tent Ordinance in conjunction with this program. She advised that she would be in favor of this program if it applied to areas other than Main Street.

Commissioner Frontero asked if the City Council amended the LMC to allow the Balcony Enclosures. Planner Tubbs explained that the pilot program was created to run for a certain period of time, and the LMC was amended to allow for it. She recalled that the intent was that when the program ended, the LMC would be amended to either make it a permanent fixture or remove it. Commissioner Frontero understood that if this program were not continued, then the LMC would be amended to reflect that.

Chair Suesser supported Commissioner Hall's requests and added that she would also like to know whether there was any damage to the Stark Buildings that abut Riverhorse. She recalled

that a number of years ago, the Planning Commission approved tents for North Base in the alley between their historic building and their adjoining building during Sundance. She also wondered where the pods fall in the Code. Mr. Harrington stated that there have been some things that were temporarily allowed during COVID-19; he did not know the status of those and ensured that these issues would be addressed when Staff returns on this topic. He acknowledged that while this issue would be separate from the Balcony Enclosures, it was related.

B. Land Management Code Amendments - The Planning Commission Will Conduct a Work Session on Proposed Land Management Code Amendments to Clarify Landscaping and Water Wise Regulations, Define Key Terms, Update Gravel Regulations, Establish Landscaping Regulations Based on Land Use Type, Provide Flexibility to Replace Significant Vegetation with Water Wise and Firewise Landscaping, Update the Recommended Plant List to Identify Water Wise Plants, and Clarify Landscaping and Limits of Disturbance. PL-21-05064.

City Planner, Lillian Lederer, and City Planner, Spencer Cawley presented the item. Planner Lederer reported that it came before the City Council in April and they would be presenting their updates to the Commission. She reported that since April, they posted a survey to Engage Park City that opened on October 1 and will run until October 20. They also mailed out postcards to over 8,000 property owners regarding the future Planning Commission and City Council meetings on this topic. They also passed out fliers at the City Open House.

Planner Lederer highlighted the language at the beginning of LMC Section 15-5-1, Architectural Guidelines. While this language prefaces everything, they specifically looked at LMC Section 15-5-5. She read the following:

“It is also the intent of this section to encourage and implement water conservation practices for landscaping as it is in the public’s interest to conserve water resources and promote Water Wise Landscaping. Water Wise Landscaping is a concept of landscaping with plants that use little or no supplemental irrigation and are typically native to the region. The concept also requires water-conserving irrigation practices such as drip irrigation, Hydrozoning, and effective mulching with plant-based mulches.”

She commented that the idea was that these updates would work to better fulfill that stated goal.

Planner Lederer stated that there were three goals to be achieved with these updates:

- The recommended amendments would align the LMC with House Bill (“HB”) 282, Water Wise Landscaping Amendments definitions and define key terms;
- Reorganize, update, and simplify landscaping regulations so they are easily understandable for the community, applicants and staff; and
- Provide additional information to applicants.

Planner Cawley explained that HB-282 was passed in the most recent Utah Legislative Session. The bill prohibits municipalities, counties, and homeowner associations (“HOAs”) from prohibiting a property owner from incorporating Water Wise Landscaping by requiring a certain percentage of lawn or turf coverage. He stated that Staff was recommending that they

implement the State's definitions, as well as updates from this bill to help strengthen the Landscape Code in the LMC.

Planner Cawley also pointed out that a municipality or HOA cannot require a property owner to install or keep in place lawn turf in an area with a width of less than eight feet. He explained that the LMC does not restrict the installation of Water Wise Landscaping; however, as they implement the amendments to reflect the language defined by the State, they are looking to unify and strengthen the current regulations. He presented a graphic showing the proposed updates and noted that these were to help clarify the existing Code, which is somewhat confusing even to Staff. He pointed out the update that would differentiate between the terms "gravel" and "rock," in terms of size and where it could be located.

He also noted updates regarding prohibiting Zeroscaping and restricting lawns, gravel or rocks on slopes with a ratio greater than 3:1. He mentioned allowing the replacement of Significant Vegetation that might not be native or Water Wise, and replacing it with Water Wise species. He noted the updates that would limit impervious surfaces and update the City's recommended plant list to identify Water Wise species.

Planner Lederer identified the following specific definitions planned to be included in the amendments as follows:

- Gravel: a round rock less than two inches;
- Rocks: greater than two inches;
- Irrigation Plan: a plan showing the components of the irrigation system with water meter size, backflow prevention, precipitation rates, flow rate, and operating pressure for each irrigation circuit and identification of all irrigation equipment. She noted that this had been defined within Section 15-5-5; however, they do not have it defined under the LMC Definitions at the end of the LMC;
- Impervious Surfaces: any hard-surfaced man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, sidewalks, patios, and paved recreation areas;
- Graywater: wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, or laundry tubs used for landscaping as approved by the Summit County Health Department;
- Mulch: material such as rock, bark, wood chips, or other materials left loose and applied to the soil. They also differentiate between organic mulches and inorganic mulches;
- Water Wise Landscaping: a landscaping method developed especially for arid and semiarid climates utilizing water-conserving techniques, such as the use of native drought-tolerant plants, mulch, and efficient irrigation that reduces the need for supplemental irrigation. Water Wise Landscaping is a mix of plantings, rocks, and other landscaping materials with at least 50% of the landscaped area containing plants, trees, and shrubs. The use of mulch coverings, organic or stone-based, without 50% plantings does not constitute Water Wise Landscaping. She noted within this definition they also included the following:
 - Hydrozoning: plant grouping according to water needs, allowing for more efficient irrigation. Plants, trees, and shrubs that are appropriate to the local climate are used, and care is taken to avoid losing water to evaporation and runoff;

- Xeriscaping: a sustainable landscape that conserves water and is based on sound horticultural practices designs that incorporate low water use plants planted in Hydrozones.
- Zeroscaping would be prohibited.
- Zeroscaping: a landscaped area, not including approved Impervious Surfaces that is primarily gravel, rocks, and/or mulch.

Planner Lederer explained while Zeroscaping with rock is low maintenance, it is not necessarily the best for this climate. Planner Cawley stated that Staff identified additional resources that they would like to make available for the public. While these resources would not necessarily be in the LMC, they would like to find ways for the public to take advantage of those resources.

He identified the first resource as rebates for Water Impact Fees. Section 11-13-7 of the Municipal Code allows a property owner to receive a rebate of up to 50% of the paid exterior Water Impact Fee if they install Water Wise Landscaping. Planner Cawley explained that the Planning Department helps process these rebates; however, they are seeing people who would like to receive a rebate for removing water-intensive landscaping and replacing it with Water Wise Landscaping. The Code does not allow conversions to obtain a rebate, so they could consider this moving forward.

Planner Cawley referenced a pilot program to be launched next year that involves a landscaping rebate or Cash for Grass. The Planning and Water teams are coordinating and preparing for this pilot program with updates to the Landscaping Code and a Landscaping and Water Conservation survey. He stated they would update the webpage to provide information regarding this pilot program when it is launched. He reported that there are also State incentives following State lawmakers' approval of \$5 million for a statewide grass removal rebate program. This program was still under review with a possible launch later this fall.

In addition, HB-121 is a Water Conservation Modification, which offers preliminary eligibility criteria that would allow for rebates. These rebates would be available for such things as:

- The property must have living, maintained turf grass that the owner intends to replace with drought-tolerant landscaping;
- The owner must be in good standing with their water provider—no unpaid bills; and
- Participation is voluntary and not required by governmental code or policy.

Planner Cawley reported that when Staff was before the Commission in April, there was discussion of the need to look into graywater options. Summit County Health Department received approval from the Utah Department of Environmental Quality to implement the Graywater Systems Program. He explained that there were two available tiers for residents and businesses. The Tier 1 System (residential) would include a permitting fee of \$140.00. The Tier 2 System (commercial and multi-family) would have a permit fee of \$730.00.

Planner Cawley explained that Staff was also looking at ensuring that the Plant List in the City Code was updated to reflect Water Wise as well as Fire Wise, noting that there are requirements for Fire Wise Landscaping as well. He also mentioned maintaining and updating a

website so that the public can access information. He specifically referenced Utah State University's Center for Water Efficient Landscaping, and Staff was still looking at additional resources.

Planner Cawley highlighted the preliminary redline of the Landscaping Code. He added that they were looking at updating the numbers for Lawn and Turf Limitations so that they more accurately reflect what is being asked of by the State. He stated that they would bring these amendments back before the Planning Commission on October 26 for action. In preparation for Commission action, Staff would finalize the definitions, research the turf lawn sizing options and create a draft website page. Staff requested any other Planning Commission direction beyond the information presented today. Following Planning Commission action, Staff will present those recommendations to the City Council on November 17.

Chair Suesser referenced the comment regarding replacing Significant Vegetation with Water Wise plants and incentivizing people to do that, and felt that replacing lawn would make sense; however, she was concerned that these updates might result in owners removing Significant Vegetation. Commissioner Hall understood that Water Wise plants are fairly limited, and referenced a large Master Planned Development where the applicant would be prohibited from replacing ten large pine trees with like kind.

Commissioner Sigg referenced the Gambel Oak, which many refer to as a "junk tree." He noted that it is an indigenous tree that is relatively water tolerant. He would like to see something along the lines that indigenous species in areas that are truly native could not be removed in favor of Xeriscape. He added that with respect to the diameter of rock, many homebuilders like to put rock in the right-of-way, and rock is generally purchased in a 3-inch minus or 4-inch minus; therefore, he felt that terms should relate to how the rocks are purchased from the quarry.

Planner Cawley reported that the Engineering Department requested the addition of language that would restrict rock from going into spaces near the right-of-way based on their requirement of four inches. Staff was trying to make this Code match what is required by the Engineering Department.

Commissioner Johnson agreed with the prior comments. He referenced the proposed change to Section 3.d.(2)(C) and suggested the following: "The Forestry Manager *and* Planning Director may approve Significant Vegetation replacement with native drought-tolerant Water Wise species of equivalent type and size." He felt it was important for the Planning Director to have that discretion from a Planning perspective, with advisement from a Forestry Manager.

Chair Suesser felt that the crux was defining Significant Vegetation in a different way, and noted that they were talking about lawn. Commissioner Frontero observed that they want to incentivize people to remove grass, not vegetation. They do not want to create a loophole for people who want to remove a lot of vegetation.

Chair Suesser noted that it is challenging to find a landscape architect or gardener in Park City, and suggested finding a way to connect homeowners with those who are knowledgeable about Water Wise plants.

Commissioner Hall thanked Staff for looking at this and agreed that the current Code is a challenge. She felt these updates were so restrictive that she envisioned problems landscaping

small spaces. She disagreed with the exception for recreation, school, public and quasi-public institutions and that granting a blanket exception for the City was not the best practice given that the City was trying to implement these policies. She stressed that the City should be the example, not the exception. Chair Suesser agreed.

Commissioner Hall referenced Zeroscaping and felt that there were certain situations where it should be allowed, although she did not know how that could be defined. They can have patches of gravel and rock and understood they do not want a one-acre parcel of rock.

Planner Lederer stated that pursuant to the current Code, Zeroscaping was not prohibited. Commissioner Hall asked where the line was drawn and stated that as she read the proposed language, it would prohibit a large area of rocks to reduce lawn. She felt it was contradictory in that the City wants owners to be Water Wise, but they cannot do Zeroscaping.

Commissioner Hall suggested a narrow definition of Zeroscaping. She also observed that the use of artificial turf was extremely limited, and would like to revisit it as she felt there is a place for artificial turf. She noted that she previously advocated expanding the use of artificial turf, and continues to support this expansion. She asked where the Water Wise Landscaping language came from. Planner Cawley explained that it was pulled from Code, and they looked at each plant to see which ones were considered Water Wise. Commissioner Hall noted that as part of Park City Plant, many of the trees the City gave out were on the list as not Water Wise trees, but they grow well in the wetlands regions. She gave the example of a Seedless Cottonwood that is not on the list of Water Wise, but does really well near creeks and in wetlands.

Commissioner Hall wanted to discuss impervious surfaces. She did not understand what was meant by artificial turf made from sustainable materials and requested further clarification. As written and as proposed, she read the Code as not allowing someone to landscape a yard with rock and artificial turf. Commissioner Hall would like people to have realistic options so that they can be Water Wise with functionality and aesthetics. She referenced the language requiring mulch to be applied three to four inches deep, and felt that seemed like a lot and might require a landowner to excavate to place mulch. If it is just added on top, she envisioned it would run off depending on the slope.

Planner Cawley explained that the Best Practices was to have enough depth that there would not be runoff from one property to another. They were looking to retain water runoff on-site, and the mulch depth helps with retaining water.

Commissioner Hall felt the practical implications were very strict and did not know how someone would comply with this requirement. She agreed that the Code needed to be amended to support Water Wise concepts, but it needed to be understandable to a layperson. By prohibiting overhead spray irrigation, the Code effectively eliminates lawns, yet at the same time, it would also eliminate artificial turf and limit the use of rocks. Planner Lederer explained that the intent was not to eliminate artificial turf. Staff was researching the source of the table in the Staff Report.

Commissioner Hall noted that artificial turf was different than the turf limitations and observed that there is currently a stricter rule on artificial turf. She recalled that they discussed this with Bruce Erickson who was a huge proponent of this. Chair Suesser agreed and thought that residential homeowners were not allowed to use artificial turf.

Planner Lederer explained that their idea was to promote more sustainable artificial turf that would allow water to seep through. She noted that some artificial turfs are not Water Wise because the water does not seep through. She added that the idea was not to eliminate lawn area but to reduce it or look at other options such as clover lawns or more natural mountain scape. She reiterated that the intent was not to limit homeowners to only Water Wise; rather, the updates were written to help promote the other incentives toward becoming more Water Wise than less. Currently, the Code is at 50% and they would like to work towards increasing that percentage, and these updates were intended to inform residents about the different steps or practices they could take to make their lawns more Water Wise.

Commissioner Hall agreed that they want the City to be more Water Wise; however, she felt that the provisions appear to eliminate lawns and Zeroscaping while limiting the use of rock. Planner Cawley stated they would clarify regarding overhead spray, and stated that HB 282 required that to be part of the Code. The bill contained a definition of "overhead spray" and how it could be used with Water Wise Landscaping. He reiterated that the City was required to implement the provision regarding overhead spray, but stated that they would work on making the language clearer.

Commissioner Hall requested Staff return on the issue of artificial turf and noted that the Commission previously spent a lot of time on that issue. Planner Cawley stated that artificial turf is included in the Landscaping section, and read it as follows: "Artificial turf is allowed to be used in limited quantities on decks, pathways, recreation and play areas, or as a limited landscaping material on areas in which vegetation may be unsuccessful. Artificial turf's installation shall not pool water and be installed to allow for drainage."

Commissioner Hall stated this was how she remembered it and recalled that Mr. Erickson wanted no exceptions. In response to a question from Planner Cawley, she expressed support for expanding the use and observed that it seemed counter-intuitive to promote Water Wise, but not allow artificial turf. She also felt differently with regards to someone's enclosed back yard and understood that maintaining the streets and not having a Zeroscaped from the standpoint of aesthetics.

Chair Suesser noted that the draft was to incentivize and educate people on what steps they could take to be more Water Wise, rather than prohibiting.

Commissioner Hall asked who the provisions applied to, and wondered if a Landscaping and Irrigation Plan would be required for every homeowner who was going to landscape his or her yard. Planner Lederer stated that unless they receive a Building Permit or Landscaping Plan, they do not have a way to check to see if the landscaping is Water Wise. She added that they receive Landscaping Plans from some residents that are completely renovating their landscapes in the Residential or Historic zones. If someone is just planting a new tree, they do not receive Landscaping Plans.

Commissioner Sigg noted that with soil coverage or weed mats, there could be runoff even with mulch. He felt there needed to be more definition of what an allowed substrate would be because almost every type of mulch has some type of weed barrier underneath. He also suggested looking at aspects of slope and sun and mentioned that grass grows with less water on the north side of a home. He felt that these types of applications could be informative or a

mandate. He mentioned that often mulch is on too steep of a slope and slides down. He suggested that mulch areas should be held to a 2% grade so it does not just slide down the hill.

Planner Lederer asked the Commission if it preferred specifics with regards to items such as depth of mulch, and simply define it and leave the residents to find Best Practices on how deep to have mulch. This would keep the definitions specific, but the regulations more vague.

Commissioner Hall felt that it would be good to add some flexibility and mentioned the limitation with respect to ground cover. Planner Cawley noted that the list attached to the Staff Report was not meant to limit the types of plants. Commissioner Hall observed that as written, the Landscaping Plan would be required to be 50% Water Wise, yet the list is very specific. She noted that if someone had a steep slope that could not hold rock, gravel, mulch, or grass and they could not install artificial turf, then the option would be groundcover; however, she noted that the types of ground cover are very limited.

Planner Cawley clarified that the list in the Code is not exhaustive. There are opportunities through education for a homeowner to go beyond that list to identify plants that would work on a site-specific basis. Planner Lederer added that the entire landscaped area is what is required to be 50% Water Wise and used the example of landscaping that is split between lawn and Water Wise plants, or the irrigation is Water Wise.

Chair Suesser observed that Commissioner Hall was also emphasizing that people want to be respectful of the climate and plant Water Wise species, and the City is trying to incentivize that; however, it is presented in a way that seems too limiting. She felt that the resources that would go along with these updates would be helpful so they could implement these elements.

Planner Cawley confirmed the Commission's feedback focused on incentivizing and offering flexibility. Commissioner Hall noted that the current Code was confusing to the average person, yet this was an important topic that should be easily understood by a layperson.

Commissioner Kenworthy agreed that everyone wanted to achieve these goals. He would like to see something in the updates that protect older trees, even if it might not be ideal for water consumption. He would like simplified language so that neighbors know that nothing would be gained by the vague term "Significant Vegetation." He suggested protecting trees by age and size so they could not be removed. In terms of grass, he noted that UDOT uses a seed blend along the highways, and they could recommend these types of things on steep slopes. He added that different grasses are drought tolerant.

Planner Cawley explained that there is currently a definition for Significant Vegetation in the LMC, and sought clarification from Commissioner Kenworthy if he was asking Staff to amend that definition. Commissioner Kenworthy requested that some simple language be included that would protect older trees.

Chair Suesser added that she would like to see Staff revisit the way that the term Significant Vegetation was being used in these updates. She suggested possibly not using the term in the sections where they reference replacing Significant Vegetation with Water Wise plants.

In response to an inquiry from Commissioner Johnson, Planner Cawley advised that the prior Forestry Manager was Bruce Erickson. Mr. Harrington confirmed that the City had not yet appointed a replacement for that position.

Commissioner Johnson assumed that the new Forestry Manager would be licensed, and felt that this position would be important in terms of these updates, and providing input regarding native trees in the area. He reiterated that he would like to blend the expertise of both the Forestry Manager and Planning Director for approvals, especially when addressing Significant Vegetation.

Chair Suesser commented on the discussion regarding the age of trees and observed that an Aspen field would be considered Significant Vegetation despite not having older or larger trees. She struggled with blanket definitions and felt that they needed to be thoughtful about them.

Commissioner Van Dine echoed Chair Suesser's comments regarding Significant Vegetation, particularly regarding replacement. She understood the confusion as to what someone could install and recalled the artificial turf discussions. However, she would not like to see those changed and felt that the Code allowed for it, although not extensive, because much of the heat islands were created with these materials. She lauded Staff for their work on these updates and noted that based on her experience with re-landscaping, the current Code language was difficult to read and understand. Commissioner Van Dine observed that while the new language was limiting, it also specified options within the limitations.

Chair Suesser asked if Staff could include recommendations for plantings on Steep Slopes. Planner Lederer stated that Staff suggested the prohibition of Zeroscaping and asked if the Commission wanted that reworked into allowing a limited amount or percentage of Zeroscaping. She explained that Staff proposed that Zeroscaping would be defined as a landscaped area, not including approved impervious surfaces, and they could re-work that as a percentage.

Commissioner Hall stated that she would like to have someone provide education on what to do in terms of landscaping. Commissioner Johnson noted that a forestry expert could provide that input and the Planning Director could take that input and apply it to the use on the property. Commissioner Van Dine mentioned the prior discussion about creating a specific place for both paid and free resources and felt that these needed to be included somewhere.

Director Milliken appreciated the Commission's feedback and praised Staff for trying to make sense of a confusing part of the Code. She pointed out that the City has a Forestry Advisory Board and when they have applications that have issues with Significant Vegetation it is brought before the Board to review. This Board has been acting as the Forestry Manager pending an appointment for that position. Chair Suesser stressed the importance of having good resources available to the public.

The Commission took a short recess. Commissioner Kenworthy reported that he recently spoke to former Commissioner Doug Thimm who sent his regards.

7. REGULAR AGENDA

A. 3099 Mountain Ridge Court - Plat Amendment - The Applicant Proposes to Amend the Mountain Ridge Subdivision Plat to Modify the Limitations on Maximum Building Square Feet for Lot 13. PL-22-05368.

Planner Cawley reported that the subject property is located just off Meadows Drive and identified it on a map displayed. The property is located within the Single-Family Zone and

abuts the Recreation Open Space Zone. Site photographs were displayed. Planner Cawley indicated that the applicant petitioned the City for a Plat Amendment at the end of 2021, which was reviewed by the Planning Commission and the City Council. At that time, the applicant proposed to amend the plat to allow an increase in the Building Envelope and the Maximum Building Area. The applicant requested to increase the square footage from 3,247 square feet to 3,410 square feet, and amend the Building Envelope to add 220 square feet to accommodate this addition.

In February, the Planning Commission forwarded a negative recommendation to the City Council on the applicant's request stating that the proposal did not meet Good Cause and was inconsistent with the original intent and methodology of the plat. The Commission suggested the applicant find a compromise and return with an amended application.

On March 3, 2022, the City Council denied the Ordinance based on the Planning Commission's recommendation.

Planner Cawley reported that the amended request before the Commission seeks to amend the plat to increase the Building Footprint by 120 square feet to accommodate an addition of 526 square feet. He stated that there is a portion at the front of the structure where there is a platted Building Envelope of approximately 85 square feet that remains unused. The amended plat would remove the unused portion of the footprint at the front and transfer the excess to the rear, resulting in a net increase of 35 square feet to the total Building Footprint.

Planner Cawley presented a graphic showing the proposed changes to the Building Envelope. He stated that there are definitions in the LMC regarding how the area of a structure is to be measured and presented those to the Commission. He reported that the breakdown of the measurements made by the applicant's architect of the area of the basement, the garage, the main floor, and the upper floor. Within the Code, the lowest Story of a Building, provided the floor level is not more than four feet below Final Grade for more than 50% of the perimeter can include habitable or uninhabitable Floor Areas. He explained that if 50% of the perimeter is four feet below the Final Grade, it does not count toward the Floor Area.

Planner Cawley explained that this is why both the Basement and the Garage areas both have zero square foot Floor Area. This results in a Total Livable Area measured through the LMC of 2,721 square feet.

Planner Cawley stated that the proposed Plat Amendment would meet the less restrictive Single-Family Zoning District requirements and highlighted the table showing the Front, Rear, and Side Setbacks as required by the zone and the Subdivision Plat.

In terms of House Size, the Subdivision Plat limits Lot 13 to 3,247 square feet. In addition, the Subdivision Plat is more restrictive on Building Height; however, the applicant did not request to exceed the 25-foot height from existing grade.

Planner Cawley reported that the total square footage of habitable space allowed in the Mountain Ridge Subdivision is approximately 24% of the Lot Area, or 4,600 square feet, whichever is less. The applicant's addition would increase the habitable space as defined in the LMC to meet that 3,247 square-foot maximum area limit. He observed that the Planning Commission must make a finding of Good Cause prior to forwarding a positive recommendation for City Council's consideration. The LMC defines Good Cause as:

- Providing public amenities and benefits;
- Resolving existing issues and non-conformities;
- Addressing issues related to density;
- Promoting excellent and sustainable design;
- Utilizing best planning and design practices;
- Preserving the character of the neighborhood and Park City; and
- Furthering the health, safety, and welfare of the Park City community.

Planner Cawley reported that the intent of the Subdivision Plat, as established in 1989, was that the buildings should be sited to preserve significant views so as not to break prominent ridgelines. Based on 1990 Staff Reports, stringent development controls were placed on each Lot, which include Limits of Disturbance, Revegetation, Minimum and Maximum Square Footage, and Building Height.

He read the applicant's statement of Good Cause as follows:

There is Good Cause for this Plat Amendment as the proposal will allow homeowners to construct an addition that is in compliance with the zoning requirements, the new proposed maximum floor area is consistent with many of the other lots of the subdivision. Additionally, no non-conformities will be created and no changes in density will result from the proposed Plat Amendment. Further, the applicant will replace any disturbed vegetation, and the amendment will not result in increase density.

Planner Cawley reported that Staff received public input that was distributed to the Planning Commission prior to this meeting. Staff also received an email after this meeting started, which was also provided to the Commissioners. The input would be entered into the public record. He stated that Staff recommended the Planning Commission review the Mountain Ridge Subdivision Lot 13 Plat Amendment, hold a public hearing and consider whether there was Good Cause to forward a positive recommendation for the Council's consideration on November 11, 2022, based on the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the draft Ordinance.

Planner Cawley reported that the applicant, David Maya, was attending virtually should the Commission have questions. Mr. Maya stated that how the percentage of coverage of the land was determined is not specified anywhere, and there is no definition of how much coverage is allowed. He stressed that he has asked for a .25% increase to get him to approximately 23.35% coverage.

Mr. Maya commented that 10 of the 21 lots already have greater than 24% coverage. He offered that the definition of Good Cause was nebulous, but felt that it would also make the amount of land coverage equitable. He did not know how the decisions were made that one house would get 28%, another would get 30%, yet this lot gets only 22%. He was only asking for a net growth of 35 square feet and noted that he already had 526 square feet of buildable area and was only required to come before the Commission because he wants to extend the home six feet back onto his patio. He noted that he was adding one bedroom and one bathroom, and the extension was cantilevered and would not come down to the ground. Mr. Maya thanked Planner Cawley for his work and commented that he was instrumental and straightforward in this process.

Commissioner Sigg asked if there was an HOA and if it weighed in on this application. He also asked if this was a Subdivision that required an HOA letter. Mr. Maya advised that there is a dispute as to whether there is an HOA, and noted that the corporation was inactive as of 2007 and there was no HOA registered with the State of Utah for this development. He added that someone wrote a letter claiming there is an HOA, although there has never been a meeting, minutes, and no legally incorporated entity that can call itself an HOA.

Mr. Maya stated that there are recorded Covenants, Codes, and Restrictions ("CC&Rs").

Commissioner Kenworthy referenced the letter dated October 10, 2022, from Arthur and Pamela Bingham.

Chair Suesser opened the public hearing.

Arthur Bingham referenced the applicant's statement as to why he wants this and it has nothing to do with fairness; rather, it has to do with the fact that he bought a house that he would like to enlarge. Mr. Bingham stated that the applicant is making a significant addition to the back of the house and giving up space that he is not using. He felt that there was plenty of space within the footprint for the applicant to add more space. Mr. Bingham commented that the house is completely out of character with the neighborhood and is a modern set of blocks in odd configurations that look nothing like anything in the rest of the development.

He added that it is directly in the sight line of Mr. Maya's next-door neighbors. Mr. Bingham was aware that letters had been written by nearly all of the applicant's neighbors, as well as others, who want the Plat enforced as written. He argued that the applicant's desire to add to his home was not Good Cause; in fact, Good Cause has to do with making the neighborhood better or correcting something. Mr. Bingham stressed that Good Cause is a factual statement, not an equitable statement. He stated that there are rules for this Subdivision that everyone else abides by, and they expect the applicant to abide by them as well.

Mr. Maya interjected that he was not aware that his home had to comply with Mr. Bingham's idea of a nice house.

Angela Moschetta agreed that Good Use is clearly defined and not subjective and that it did not include one's comfort or personal preference of how they would like to see their house expand. She stated she does not know the applicant and made no assumptions about the home or his tastes, but she felt that they should equitably enforce everything in every neighborhood in Park City. She referenced prior comments she made about issues in Old Town, but felt that this applies everywhere.

Mr. Maya asked if Ms. Moschetta was a resident of the neighborhood and was informed that she is a resident of Old Town.

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

Commissioner Sigg asked Mr. Harrington if the application needs to satisfy all of the elements in the definition of Good Cause. Mr. Harrington explained that the definition was not all-inclusive, and referenced the language that says "...such things as:" He stated that this definition followed State law, and was expansive to address all types of Plat Amendments across Park City. He

observed that the broad definition worked to the advantage of most applicants, and in cases where the application is for a narrow, one-lot change in a subdivision, they typically start with whether the change was consistent with the original approval.

In addition, he explained that the Planning Commission was to look at the specifics of this proposal and take into account the neighborhood and public input in terms of the direct impacts of the proposal. At the other end of the spectrum is whether the proposal meets the minimum standards of the zone. Mr. Harrington noted that there was no doubt that this proposal met the minimum regulations for the zone. Therefore, the Commission's inquiry would focus more on compatibility and consistency with the original approval and whether the proposal has any adverse negative impacts.

Commissioner Sigg asked if there was a State law mandating that all HOAs be brought up to a certain standard. Mr. Harrington stated that there were regulations regarding incorporation and the recognition of the HOA. He cautioned against placing any bearing on the evaluation of this application because the HOA would not have veto authority in any event. Mr. Harrington added that the Commission could assess specific input from the neighbors, and stressed that the letter from the HOA would only address notice, not approval.

Chair Suesser asked if they had a visual of how the build-out might impact the neighbors' view. Planner Cawley advised that the preliminary drawings were not included in the Packet because they were not the final version. Chair Suesser noted that the public input stated that this build-out might impact a view shed that the neighbor currently enjoys, and wondered how the neighbor made that determination.

Mr. Maya stated the addition is on the back of the home and there are no homes behind his. He was unable to speak to his neighbor on one side, who was not present this summer. He was able to speak to the other neighbor and told them that if he could not get the neighbor comfortable that this addition, then he would not proceed with it.

Commissioner Kenworthy did not find Good Cause as this would not preserve the character of the neighborhood and would set a precedent. Whether or not the immediate neighbors are satisfied, numerous other neighbors have expressed concerns about the slippery slope that this would cause.

Commissioner Johnson stated that the Planning Commission Meeting Minutes from 1989 and 1990 included in the Packet shows that when the Subdivision was contemplated and approved, the City did a lot of hard work to plot this the way it is. He referenced a note that Lots 6 and 7 were originally going to have houses, but they switched it to a parkland dedication. He stressed that there was a reason for the buildable sizes on each Lot. Commissioner Johnson agreed that this would set a precedent and did not find Good Cause for this application.

Commissioner Hall disagreed with the prior Commissioners and expressed support for the application as she felt it complied with the Code and that the applicant met the Good Cause requirement. She was not concerned with the precedent, as other applications could be addressed on a case-by-case basis.

Commissioner Frontero asked Planner Cawley if he was comfortable with the architect's calculations. Planner Cawley stated that he did not confirm these measurements; however, based on the Code definitions he felt they could be accurate. Commissioner Frontero noted

that they seemed to be debating 35 feet, assuming the architect is correct. He was not necessarily giving the architect full consideration that they were only talking about 35 feet. He also did not find Good Cause and stated that as he read the examples of Good Cause in the Code, he did not see this application meeting any of those.

Commissioner Sigg concurred with Commissioner Frontero and expressed difficulty checking the boxes with regard to Good Cause. In addition, he felt it difficult to not have a visual of what this addition would look like. He noted the negative comments from surrounding neighbors and felt that Building Envelopes were created for a reason. Whether or not it is a slippery slope, he felt everyone could submit an application; however, his focus was on Good Cause and the fact that this application did not check the boxes as set forth in the definition. Mr. Harrington clarified that the application was not required to meet all of the criteria in the definition of Good Cause. Commissioner Frontero clarified that he did not view this application as checking any of the boxes for Good Cause.

Chair Suesser understood that there might be some support for continuing this application for more information, to confirm the calculations, and to get comfortable with the proposal. Alternately, she felt that the Commission was leaning to deny this Plat Amendment.

Commissioner Van Dine agreed with Commissioner Hall that the proposal meets the requirements for the parcel; however, she understood the comments that it did not meet the Good Cause requirement. She would support a continuation to receive more information, but would also support a denial at this point.

Mr. Maya addressed the issue of setting a precedent and stated that even if the Commission allowed him to expand the Building Envelope by 1,000 square feet, he would still be restricted by the square footage allowance. Therefore, the only way that anyone in the Subdivision can add to their home as if they were below the Living Square Footage available to them. He argued that there would be no precedent being set that would allow anyone to expand beyond that restriction. He added that there might be some confusion about the 35 square feet and explained that the requested addition was to the Building Envelope, not to the house. He reiterated that his proposal was not to build out square footage beyond what he is allowed, which is 3,247 square feet. He acknowledged that if the calculations showed that he would not be allowed to do it, then he could not expand.

Mr. Maya stressed that he was not asking to go beyond 3,247 square feet. He would be willing to abide by the City's measurement of the square footage.

Planner Cawley clarified that 35 square feet would be added to the Building Envelope to accommodate the addition of approximately 500 square feet total. He confirmed that 3,247 square feet was the allowable square footage based on the Plat.

Chair Suesser observed that the proposal would still go beyond the Building Envelope established with the Subdivision.

Mr. Maya offered to provide the Commission with renderings or images of what the addition would look like. He stated that it would not change much from the preliminary drawings. He changed it from an overhang of 12 feet to an overhang of 6 feet, cutting out 120 square feet in order to stay within 3,247 square feet. He assumed that if he did not expand the Building Envelope and he had 526 square feet available to build, he would not have to come before the

Commission to construct the addition. He added that he could do this addition without a Plat Amendment, but he would have an eight-foot ceiling because he was up against a restriction on the height.

Mr. Harrington explained that the motion would either have to identify the basis for the negative recommendation or direct Staff to return with a modified Ordinance reflecting the comments of the Commission.

MOTION: Commissioner Kenworthy moved to forward a negative recommendation for the City Council's consideration on November 11, 2022, for 3099 Mountain Ridge Court—Plat Amendment, based on the lack of Good Cause in the adjustment of the Plat Findings, as voiced by the Commission during this meeting, and based on the following Findings of Fact and Conclusions of Law:

Findings of Fact

Background:

1. The property is located at 3099 Mountain Ridge Court.
2. The property is listed with Summit County as Parcel Number MR-13.
3. The property is in the Single Family (SF) Zoning District.
4. On September 1, 2022, the Applicant submitted a Plat Amendment application to the Planning Department. The application was deemed complete on September 22, 2022.
5. The proposed Plat Amendment increases the maximum square feet for the existing Single-Family Dwelling.
6. The proposed Plat amendment amends the Building Envelope.
7. No easement is vacated or amended because of the Plat Amendment.
8. The LMC regulates Lot and Site Requirements per LMC § 15-2.11-3.
9. A Single-Family Dwelling is an allowed Use in the SF Zoning District.
10. The SF Zoning District minimum Front Setback is twenty feet (20').
11. The SF Zoning District minimum Rear Setback is fifteen feet (15').
12. The SF Zoning District minimum Side Setback is twelve feet (12').
13. The Mountain Ridge Subdivision requires a minimum Front Setback of twenty feet (20') for Lot 13.

14. The Mountain Ridge Subdivision restricts building height to twenty-five feet (25') as measured from natural, existing grade at the building site. Gable, hip, gambrel, or other pitched roofs may extend up to thirty feet (30').
15. The Mountain Ridge Subdivision restricts the maximum total square footage of Lot 13 to 3,247 square feet.

Conclusions of Law

1. There is no Good Cause for this Plat Amendment.

Commissioner Johnson seconded the motion.

Commissioner Hall found Good Cause in that the application complied with the underlying zone, it is substantially similar to the original Subdivision Plat and CC&Rs, it sought to convert extra square footage from the front to the back, and there are no neighbors to the rear of the property. In addition, she stated that the proposal was consistent with the Subdivision for Maximum Floor Area, there were no other non-conformities, and the applicant stated that he would replace any disturbed vegetation. She also requested that they add Good Cause to the list of things discussed earlier because she felt it was too constrictive and they have approved many prior applications in compliance with a much broader definition of Good Cause. She felt it was unfair to apply the definition inconsistently.

Commissioner Kenworthy added that the applicant stated that he could achieve his addition without a Plat Amendment, which further supports the denial.

VOTE: Commissioner Kenworthy-Aye; Commissioner Johnson-Aye; Commissioner Frontero-Aye; Commissioner Sigg-Aye; Commissioner Hall-Nay; Commissioner Van Dine-Nay. The motion passed with a vote of 4-to-2.

B. 7620 Royal Street - Condominium Plat Amendment - The Applicant Proposes a condominium plat amendment to combine two existing units into one recorded unit. PL-22-05343.

City Planner, Jaron Ehlers presented an image of the location and reported that the Plat was approved in 1991. It provided access for both units to the hallway and a deck listed as semi-common space. When the building was constructed, the deck was enclosed making it a *de facto* private space. In 2010, the Plat was amended and Unit 301 was extended, which effectively cut off access for Unit 309 to the hallway, elevator, and stairs. When that was discovered, the Planning and Building Departments required a signed Access Agreement.

Planner Ehlers reported that this Plat Amendment complied with the Residential Development District Zoning requirements, as all proposed changes to the Plat would be restricted to the interior area and there would be no change to the existing condominium structure. He added that the Plat Amendment also complied with the Parking Ratio requirements within the LMC. The Amendment also meets the LMC in terms of the combination of condominiums. He advised that the unit owner must demonstrate that the removal or alteration to the partition would not impair the structural integrity of the unit, reduce support for any portion of the common areas, or violate the Utah Code and International Building Code. To ensure that, he advised that Staff

recommended Condition of Approval 3 that would require any plans to remove or substantially alter that interior wall would require a signature and stamp from a certified engineer. Planner Ehlers stated that there was Good Cause for this Plat Amendment in that it would correct the existing non-conformities regarding the private space and semi-common space, as well as access issues.

Chair Suesser asked if there would be any change to the structural integrity of any unit outside of these two units. The applicant, Rory Murphy, explained that this would change the common walls to interior walls in these units. Any change to these interior walls would have to go through the HOA and would have to be signed off by a structural engineer. He added that they could also not get a building permit until they demonstrated that it would not impact other units.

Planner Ehlers reported that Staff did not receive any public input at the time the Staff Report was published, or thereafter. On September 28, 2022, public notice was posted to the property, on the City website, and on the Utah Public Notice website. Notice was also published in *The Park Record*.

The Development Review Committee reviewed the proposal on September 6, 2022, and did not identify any issues. The application was also reviewed by the Planning Department, Engineering Department, and City Attorney's office. He reported that Staff recommended the Planning Commission review the proposed Plat Amendment, hold a public hearing, and consider forwarding a positive recommendation for the City Council's consideration on November 17, 2022, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval.

Mr. Murphy added that with regard to the additional space that should have been a deck but became part of a bedroom, the unit above did the same thing, so making it a deck again would not be possible. This application would bring a non-conforming building and plat into conformance.

Commissioner Sigg asked if any of the point loads that run through the building were identified. Mr. Murphy answered in the negative but added that with the addition of a door between the two units, a condition of the building permit would include a requirement for structural identification of the point loads.

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

Commissioner Frontero asked if any other units in this building had been combined. Planner Ehlers did not recall seeing any other combinations in the prior Plat Amendments for this building. Mr. Murphy advised that he was aware of the two combined retail units below.

MOTION: Commissioner Hall moved to forward a positive recommendation for City Council's Consideration on November 17, 2022, for 7620 Royal Street—Condominium Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as follows:

Findings of Fact:

1. The property is located at 7620 Royal Street E, Units 301 & 309.

2. Royal Plaza Condominiums was approved in 1991.
3. The property is listed with Summit County as Parcel numbers ROYL-301-2 AM & ROYL-309-2 AM.
4. The Property is located in the Residential Development (RD) Zoning District.
5. When the Property was created in 1991, Limited Common Space was designated by the Plat but was constructed as Private Space.
6. This Plat Amendment correctly records the existing Private Space.
7. In 2010 a Plat Amendment was approved that made a change of ownership to the entrance alcove for Unit #301, enlarging it and leaving no room for legal access for Unit #309.
8. This Plat Amendment corrects the entrance access non-compliance.
9. The total area of the proposed Unit 309 is 2,304 square feet.
10. The proposal complies with Land Management Code Chapter 15-2.13, Residential Development (RD) District.
11. The current LMC requires two (2) parking spaces per Dwelling Unit with a Floor Area greater than 2,000 square feet in a Multi-Unit Dwelling.

Conclusions of Law:

1. There is good cause for this amendment to the plat because it memorializes existing conditions and corrects existing non-compliance.
2. The Plat Amendment is consistent with Land Management Code Section 15-7.1-3(B), Section 15-7.1-6, and Chapters 15-2.13 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 of approval, will 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 (1) 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 Applicant shall record a plat note that any plans to remove or alter a partition wall shall be stamped and signed by a certified structural engineer.
4. There will be no external changes or expansion of the existing building footprint.
5. The condo uses/retires the existing density and does not create any new unit density for future use.

Commissioner Kenworthy seconded the motion.

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

- C. Founders Place (Parcel 00-0021-01977 in Wasatch County; 3267 West Deer Hollow Road) – Development Agreement Modification – On January 12, 2022, the Planning Commission Approved a Modification to a Master Planned Development and Conditional Use Permit for Founders Place, a 354,264-Square-Foot Ski-In Ski-Out Village in the Deer Crest Area. On July 27, 2022, the Planning Commission Ratified the Development Agreement Outlining the Requirements of the Development. The Applicant Requests a Modification to the Development Agreement Phasing Plan. PL-21-05056, PL-21- 04917.**

Planner Ehlers reported that the above application was completely withdrawn and would not be heard at this meeting.

8. ADJOURN

MOTION: Commissioner Sigg moved to adjourn.

The meeting adjourned at approximately 8:30 p.m.