PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
SEPTEMBER 27, 2023

COMMISSIONERS IN ATTENDANCE: Chair Sarah Hall; Vice Chair Christin Van Dine; Laura Suesser; Bill Johnson; John Frontero; Henry Sigg; Rick Shand

EX OFFICIO: Rebecca Ward, Assistant Planning Director; Alexandra Ananth, Senior City Planner; Spencer Cawley, City Planner; Jack Niedermeyer, City Planner; Jaron Ehlers, Planning Technician; Browne Sebright, Housing Program Manager; John Robertson, City Engineer; Rebecca Gutknecht, City Engineer; Mark Harrington, City Attorney

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1. ROLL CALL

Chair Sarah Hall called the meeting to order at approximately 5:30 p.m. and reported that a quorum was present. She noted the presence of all Commissioners with the exception of Commissioner Christin Van Dine, who was not present when the meeting was called to order. Commissioner Laura Suesser appeared online.

2. PUBLIC COMMUNICATIONS

There were no public communications.

3. STAFF COMMUNICATIONS AND DISCLOSURES

Assistant Planning Director, Rebecca Ward, provided a reminder about the public comment guidelines. She requested that anyone wishing to provide comment state their full name and sign in. Comments were limited to three minutes or less and were required to be directed to the Planning Commission, not to the applicant or audience. She reminded speakers to remain civil and address the matter under review by the Planning Commission. She also reported that on October 4, 2023, there would be a Joint Meeting with the Historic Preservation Board ("HPB") to review the Pilot Program for the Temporary Winter Balcony Enclosures on Main Street.

4. REGULAR AGENDA

A. Bald Eagle Club at Deer Valley Unit 55 Third Amended (7875 Bald Eagle Drive) – Plat Amendment – The Applicant Proposes to Modify the Platted Building Pad to Reflect the As-Built Single-Family Dwelling in the Residential Development Zoning District. PL-23-05609.

City Planner, Spencer Cawley reported that the applicant requested the item be continued to the October 11, 2023, meeting to allow Staff and the applicant to review the scope of the request.

Chair Hall opened the public hearing. There were no public comments. Chair Hall noted that the public hearing would be continued along with the Agenda Item.

MOTION: Commissioner Suesser moved to CONTINUE Bald Eagle Club at Deer Valley Unit 55 Third Amended – Plat Amendment – to October 11, 2023. Commissioner Bill Johnson seconded the motion.

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

B. 7700 Marsac Avenue – Modification of Approval – Consideration to Modify the March 23, 2022, Planning Commission Conditional Use Permit Approval for City Employee Temporary Housing on the Mine Bench Site Located in the Recreation and Open Space Zoning District. PL-23-05733.

Planner Cawley reported that the application pertains to the Essential Municipal Service of Temporary Housing Trailers at the Mine Bench Site. He introduced the Housing Program Manager, Browne Sebright, who was available to respond to any questions. In March 2022, the Planning Commission reviewed and approved a Conditional Use Permit ("CUP") for the Park City Fire District to house personnel on the Mine Bench. The CUP also allowed storage of a fire truck and other fire-related apparatus. As part of that approval, the Planning Commission set an expiration date of January 1, 2023. Planner Cawley noted that no extension to that date was requested, and the approval had therefore expired. On July 27, 2023, the City Council authorized the Housing Team to acquire these Temporary Housing Trailers at a discounted rate and to use those for housing City employees who work on the Mine Bench.

The proposal sought to continue the use of the two Temporary Housing Trailers through October 1, 2025, in order to provide housing for City employees associated with Essential Municipal Services provided at the Mine Bench while the City looked for a permanent location for the Housing Trailers. Planner Cawley indicated that the site is located in the Recreation and Open Space ("ROS") Zoning District, which is governed by Land Management Code ("LMC") Chapter 15-2.7. The site is greater than 30 acres in size.

Planner Cawley reported that the proposal complies with the Front, Side and Rear Setbacks, which are all 25 feet. He added that the Temporary Housing Trailers will be located on the portion of the site owned by the Jordanelle Special Service District ("JSSD"). Essential Municipal Public Utility Structures greater than 600 square feet are a conditional use in the ROS zone. Each trailer is 400 square feet in size for a total of 800 square feet. There are existing connections to sanitary, sewer, and water lines, as well as electricity. Planner Cawley stated that the Public Works Department will limit the occupancy of the Housing Trailers to one person or one couple per unit. The proposal will not impact the adjacent open space or public trails. He noted that the goal within the General Plan us to increase affordable housing opportunities for the City's workforce.

Planner Cawley highlighted some of the recommended Conditions of Approval. Condition of Approval 1 provided that the use would be compliant with Municipal Code Chapter 6-3 for Noise. Additionally, the Conditions of Approval required that trash and recycling be properly disposed on site and removed weekly. Planner Cawley reported that Park City and the JSSD have yet to enter into an agreement for the continued use. As a result, Staff included a Condition of Approval that an agreement must be entered into as a prerequisite to using these trailers to house City employees. The Housing Team requested the approval extend to October 2025, and at that time,

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the Housing Trailers would either need to be relocated or be reapproved by the Planning Commission.

Planner Cawley also noted a Condition of Approval that would limit the use of the Housing Trailers to the City's Public Works employees, or those employees associated with the Essential Municipal Services associated with the Mine Bench. Staff requested the Commission review this request to extend the approval for use of two 400-square-foot Temporary Housing Trailers at the Mine Bench site and transfer them from the Park City Fire District to the City employees associated with those Essential Municipal Services at the Mine Bench site. Staff also requested the Commission hold a public hearing and consider approving this CUP through October 2025.

Commissioner Suesser sought clarification regarding the transfer of use from the Park City Fire District to the City. She asked if there were trailers on the Mine Bench now that were being used by the Fire District that would be used by City employees. Planner Cawley explained that the Fire District is currently using the Housing Trailers as the District completed the renovation of the fire station at Silver Creek. Once the Fire District vacates the Housing Trailers, the City employees would then use them.

Commissioner Shand understood that the Park City Fire District used the Housing Trailers for less than a year for the purpose of housing two Park City firefighters while housing was being built elsewhere. He further understood that the request was to allow use as accommodation for essential Park City employees for another two years. Commissioner Shand asked if there was an end game or if it would be used for ongoing housing. Manager Sebright explained that they sought a two-year extension to provide enough time to relocate these employees. They would prefer to house these employees on this site for another season while they identified a couple of potential sites. They would need to weigh any potential sites against other city needs for those properties before coming to a final decision. Commissioner Shand asked if the Housing Trailers would be relocated when the employees were relocated. Manager Sebright confirmed that the Housing Trailers would be relocated as well.

In response to a question from Commissioner Henry Sigg regarding whether there was any conflict in using the Mine Bench for workforce housing plans that might be on the horizon. Manager Sebright answered in the negative.

Commissioner Frontero noted Commissioner Sigg's point, and suggested conditioning this approval as long as there was no larger citywide housing project planned for the Mine Bench area that would conflict with the location of these two Housing Trailers. He explained that he would hate to get into the scenario where a year from now, a large project was planned for the area and the two Housing Trailers were in the way. Manager Sebright reported that the Housing Trailers are currently located on the JSSD portion of the parcel, which is not owned by the City. Therefore, that location would not be within the future scope unless the City acquired it. Commissioner Frontero understood and withdrew his request for an additional Condition of Approval.

Commissioner Suesser asked for clarification regarding the agreement with JSSD. Manager Sebright stated that the City would request permission from the JSSD at its next board meeting on October 10, 2023. He added that there was no indication of any objection by JSSD to such an agreement.

Commissioner Suesser asked how permission was obtained for the Housing Trailers that were currently in place. Manager Sebright explained they would request a new lease from JSSD since

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the City would acquire the units. Senior City Attorney Mark Harrington added that the prior lease was with the Fire District, so they needed a new approval for the City to use the Housing Trailers on that land.

Commissioner Sigg asked if both parties would be listed as insured on the Housing Trailers. Manager Sebright was unsure and stated that the agreement had not yet been drafted. City Attorney Harrington advised that indemnification was a transactional element that might or might not be part of the agreement. He did not see it as an LMC issue.

Commissioner Johnson expressed concern that the material used in the insulation panels that cover the bottom of the trailer appear to be falling apart and brittle. He asked if there was a plan to replace these with something more permanent. Manager Sebright indicated that they expect to replace those. There will be a full inspection that will include all required upgrades before any staff is housed in the trailers.

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

MOTION: Commissioner Sigg moved to APPROVE 7700 Marsac Avenue – Modification of Conditional Use Permit Approval for City Employee Temporary Housing on the Mine Bench Site – based on the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Draft Final Action Letter as follows:

Findings of Fact

1. The property is located at 7700 Marsac Avenue in the Recreation and Open Space (ROS) Zoning District.

2. On March 23, 2022, the Planning Commission reviewed a Conditional Use Permit ("CUP") for the Park City Fire District's ("PCFD") proposal to temporarily install two Temporary Housing Trailers for personnel living quarters and storage of two fire trucks on the Mine Bench property during the construction of Fire Station 34 in Upper Deer Valley.

3. Condition of Approval 7 from the 2022 approval required PCFD to request an extension of the approval from the Planning Commission if the use of the site extends beyond January 1, 2023.

4. PCFD did not request an extension prior to the expiration of the CUP, and the approval has expired.

5. PCFD offered the City the opportunity to purchase the two Temporary Housing Trailers.

6. On July 27, 2023, the City Council authorized the Housing Team to acquire the two Temporary Housing Trailers in the amount of $180,000.

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7. The Housing Team requests to modify the March 23, 2022, approval to continue to use the Mine Bench site for temporary employee housing while the City searches for a permanent location for the two Temporary Housing Trailers.

8. Park City's Public Works Department currently uses portions of the Mine Bench site for storage and maintenance of equipment.

9. The City leases portions of the Mine Bench property for other uses and the City provided notice to their existing tenants that City Employees will possibly occupy the two Temporary Housing Trailers.

10. The ROS Zoning District establishes a 25-foot front, side, and rear setback from the boundary line of the lot, district, or public right-of-way. The two Temporary Housing Trailers were installed in such a way they meet the required 25-foot setback.

11. Essential Municipal Public Utility Uses, Facilities, Services, and Structures greater than 600 square feet in the ROS Zoning District are a Conditional Use.

12. The two Temporary Housing Trailers are 400 square feet each.

13. The proposal, as conditioned, complies with the criteria outlined in LMC section 15-1-10(E).

    a. Size and Location of the Site – The two Temporary Housing Trailers are located on the 29.07-acre City owned Mine Bench site. PCFD installed two Temporary Housing Trailers to the east of the Ontario Mine/JSSD parcel. The two Temporary Housing Trailers are 400 square feet each (800 square feet total) and will remain in the same location on the site.

    b. Traffic Capacity – Continued use of the temporary housing Structures will not impact existing traffic conditions. The Mine Bench is accessed directly off the State owned Marsac Avenue.

    c. Utility Capacity – PCFD worked with the Engineering and Public Works Departments to coordinate connections to existing sanitary sewer and water lines. The two Temporary Housing Trailers are connected to existing on-site power sources.

    d. Emergency Vehicle Access – PCFD confirmed the proposal meets their requirements.

    e. Off-Street Parking – Public Utility Uses require:

        i. One space per five seats; or,
        ii. Two spaces per three employees; or,
        iii. One space per 1,000 square feet or floor Area, whichever is greater.

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The Site does not have dedicated parking, but there is ample unused space adjacent to the two Temporary Housing Trailers to provide up to eight parking spaces. Public Works will limit occupancy of the two Temporary Housing Trailers to one person or couple per unit.

f. Internal Vehicular and Pedestrian Circulation – The continued use of the two Temporary Housing Trailers will not impact internal vehicle or pedestrian circulation beyond the current standard.

g. Fencing, Screening, and Landscaping – Not applicable.

h. Building Mass, Bulk, and Orientation – The two Temporary Housing Trailers are 38 feet long by 10.55 feet wide (400 square feet) each. They are set back more than 25 feet from the property line and are not visible from Marsac Avenue or the entrance of the Mine Bench.

i. Useable Open Space – The proposed use does not change or disturb the site's Open Space because the tiny homes will remain in the same approved location.

j. Signs and Lighting – No signs or lighting are proposed.

k. Physical Design and Compatibility with Surrounding Structures – Due to the industrial feeling of the site, the two Temporary Housing Trailers are similar in style to the rest of the site. Because the location is temporary, the structures are adaptable in design and style.

l. Noise, Vibration, Odors, Steam, or Other Mechanical Factors – The current Use as temporary housing for PCFD has not produced any known noise complaints. The surrounding buildings are industrial in use and more than 400 feet away.

m. Control of Delivery and Service Vehicles, Loading and Unloading Zones, and screening of Trash and Recycling Pickup Areas – Delivery and service vehicles do not need to access the site and do not require mitigation for loading and unloading zones.

n. Expected Ownership and Management of the Project – Park City Municipal owns 29.07 acres of the Mine Bench property. In 2002, approximately two acres within the Mine Bench property was conveyed to Jordanelle Special Service District (JSSD). Prior to the March 23, 2022, CUP approval, JSSD and PCFD entered into a storage agreement for use of the portion of the Mine Bench property owned by JSSD. PCMC will purchase the two Temporary Housing Trailers and manage their occupancy and maintenance. The Housing Team is searching for a permanent location for the two Temporary Housing Trailers.

o. Within and Adjoining Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste, Park City Soils Ordinance, Steep Slopes –

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This site is within the Sensitive Land Overlay and must comply with requirements of LMC Chapter 15-2.21. See Analysis Section III. The two Temporary Housing Trailers are located on a level concrete pad. The tiny homes will not disturb mine hazards or mine waste. No physical changes are proposed to the site.

p. General Plan Consistency – Goal 8 of the General Plan is to increase affordable housing opportunities and associated service for the workforce of Park City.

14. Staff published notice on the City's website, the Utah Public Notice website, and posted notice on the property on September 13, 2023.

15. *The Park Record* published notice on September 13, 2023.

Conclusions of Law

1. The application is consistent with the Land Management Code, including LMC Chapter 15-2.7 Recreation and Open Space (ROS) District, LMC § 15-1-10 Conditional Use Review, and LMC Chapter 15-2.21 Sensitive Land Overlay Zone (SLO) Regulations.

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 Use of the two Temporary Housing Trailers shall comply with Municipal Code Chapter 6-3 Noise.

2. The occupants of the two Temporary Housing Trailers shall ensure trash and recycling is disposed of properly on site and removed weekly.

3. The PCMC and JSSD shall enter into a new storage agreement that will remain active until permanent relocation of the two Temporary Housing Trailers.

4. This Approval expires on October 1, 2025, and the two Temporary Housing Trailers shall either be relocated, or the Applicant shall obtain Planning Commission approval for extended use.

5. Use of the two Temporary Housing Trailers is limited to City Public Works employees, or those employees associated with the Essential Municipal Services provided in association with the Mine Bench Site.

Commissioner Shand seconded the motion.

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

C. 2200 Park Avenue Building B – Conditional Use Permit – The Applicant is Seeking Approval to Reduce Required Parking and to Remodel a Structure within the Frontage Protection Zone ("FPZ"). PL-23-05776.

City Planner, Jack Niedermeyer introduced the applicant, Brandon Wangsgaard and the applicant's representatives Melissa Hyde and Mark O'Brien. Planner Niedermeyer reported that since publication of the Staff Report, the applicant revised the plan for the exterior basement-level patio. The revised plan would continue the retaining wall and create an L-shaped stairwell. Building B was part of the Saddleview Office Park Condominiums located at 2200 Park Avenue. He added that Building B was located within the Frontage Protection Zone ("FPZ") in the Residential Development – Medium Density ("RDM") zone. Within the FPZ, all construction activity including permanent signs in the Setback area between 30 and 100 feet from the nearest Right-of-Way ("ROW") line requires a Conditional Use Permit and was subject to all applicable review criteria as set forth in LMC Section 15-1-10. This CUP was also subject to all FPZ review criteria.

Planner Niedermeyer reported that the applicant proposed to excavate current landscaping to the basement level of Building B and construct two five-foot tall retaining walls for a heated basement-level patio. Additionally, the proposal would include the addition of stairs from the patio to the parking area to the north and modification of the basement use to increase habitable space and reduce storage space with a determination regarding parking. Planner Niedermeyer mentioned that there had been several applications over the years associated with Building B specifically, and the Saddleview Office Park Condominiums, generally. In 1994, a CUP and a Master Planned Development ("MPD") was approved for the conditional use of the office space within the RDM zone. He added that the Saddleview Office Park Plat was approved in 1995. During that same year, a Building Permit was issued for the shell of the buildings. There was a work violation in 1998 associated with a complaint from a neighbor regarding construction in the basement level of Building B. Applications for a Plat Amendment were submitted in 1998 and again in 2000. He reported that also in 2000, a Memorandum was issued by the Planning Department.

Planner Niedermeyer stated that the proposal, as conditioned, complies with the CUP criteria outlined in LMC Section 15-1-10(E). In terms of Fencing, Screening and Landscaping, Staff recommended Conditions of Approval 10 and 11 to ensure the preservation of existing landscaping in compliance with LMC regulations regarding Water Wise Landscaping, the Park City Municipal Code, and the Utah Wildland Urban Interface Code. In terms of Building Mass, Bulk and Orientation, he reported that Staff recommended Condition of Approval 12 to mitigate the size of the retaining walls. Staff recommended Condition of Approval 5 to ensure compliance with lighting requirements and Condition of Approval 13 to ensure compliance with the require retaining wall materials.

Planner Niedermeyer reported that the proposal complies with the Sensitive Land Overlay ("SLO") requirements and Conditions of Approval 10 and 11 were recommended to ensure the preservation of existing landscaping as stated previously. The proposal also complies with the off-street parking requirements outlined in LMC Section 15-3. Per the applicant, he reported that there were 10 to 15 employees in Building B. He stated that definition of "Office – General" was "a business offering executive, administrative, professional or clerical services performed with

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limited client visits and limited traffic generation, which generally employees fewer than three persons per 1,000 square feet of Net Leasable Floor Area."

Planner Niedermeyer commented that the applicant proposed to increase the Net Leasable Floor Area in the basement of Building B, which would further their compliance in terms of employees per 1,000 square feet. Currently, there is 6,700 square feet for the entire building, resulting in approximately 1.49 to 2.2 employees per 1,000 square feet. As the area increased, the number of employees per 1,000 square feet would reduce even though the actual number of employees would remain the same. The parking requirement for General Office use is three spaces per 1,000 square feet of leasable floor area. He referenced Plat Note 6, which states: "A basement will be allowed in Building B of which a maximum of 800 square feet will be habitable space and subject to parking requirements as outlined in the Land Management Code. The balance of square footage in the basement level of Building B shall be utilized as uninhabitable storage space. Uninhabitable crawl space and basement space shall be allowed in Buildings A, C, and D for storage space use only."

At the time of Plat approval in 1995, the parking requirement for Office – General Use was 5 parking spaces per 1,000 square feet of net leasable office space. He presented a chart that detailed the parking space requirement as of 1995 for each building and the total parking spaces reflected on the Plat. He presented a chart that illustrated the current parking requirements of 3 parking spaces per 1,000 square feet of net leasable office space. The calculations highlighted in red included the expansion of 819.5 square feet. The overall requirement would increase from 61 to 64 parking spaces for the entire Plat.

Planner Niedermeyer reported that the Development Review Committee reviewed this application on August 15, 2023. The Engineering Department recommended Condition of Approval 8 as follows: "A drainage plan shall be included as part of the application for a Building Permit and shall be approved by the Engineering Department prior to Building Permit Issuance." He added that the Park City Fire District requested Condition of Approval 9 as follows: "Items located on the basement-level patio will need to be arranged so that the exterior staircase is available for egress. The exterior staircase shall remain free and available for fire egress." Staff recommended the Planning Commission review the proposal, conduct a public hearing, and consider approving the CUP subject to the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Draft Final Action Letter.

Commissioner Suesser asked if there was consideration of how the basement is currently used and if the applicant is in compliance with the requirements of the prior approval. She indicated that it sounded as if the applicant had been using this space all along and was curious whether that determination was made. She asked if the applicant was out of compliance now in how they were using the basement. Assistant Director Ward responded that based on the information they had since the 1990s, the basement area had been used in excess of storage square footage and therefore not in compliance. Commissioner Suesser asked if there was a determination regarding the capacity of the patio. Planner Niedermeyer stated that the Development Review Committee did not provide any feedback from the Fire District regarding capacity on the patio.

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

Commissioner Johnson asked to see the new layout and questioned why it was changed. After looking at the side-by-side layouts, Commissioner Johnson assumed it was extended out to make

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it more accessible. Applicant representative O'Brien explained that the stairs originally went right to the parking lot; rather than exiting into a parking stall, they opted to wrap it into the building and tie it into the sidewalk.

Commissioner Johnson noted that the existing use has been non-compliant since approximately 1994, and he noted that there used to be HOA meetings in that space despite the fact that no one from the HOA was a tenant of Buildings A, B, C or D. He noted the space had been used in the past for other uses and he wondered if they should reiterate the 1994 Condition of Approval 3 that restricted real estate visitor centers and private rental options. Commissioner Suesser wanted to ensure that the space was not sub-let. Commissioner Johnson commented that the application read as though it was for an accessory use for the tenants and owners of Buildings A, B, C and D.

Commissioner Suesser observed that the way the proposal is drafted is just for the use of Building B tenants. It was noted that the tenant of Building B also occupied lease space in Building A and Building C. Therefore, there were overlapping uses not only in the parking, but in the office space as well. Some of the agents in Building A or Building C might come to Building B to get a beverage from the kitchen area.

Commissioner Suesser was not concerned with the agents in the other buildings but felt that the Commission wanted to see a restriction for the use of the basement space to the tenants of Building B, even if that included employees of that tenant who utilize other offices in the Office Park. Commissioner Johnson agreed and added that it could also affect the parking ratio. He felt it was a reasonable request.

Commissioner Frontero supported the premise that any tenant in any of the buildings could use that space. Commissioner Sigg proffered that the intention was to not allow a third party to sub-let or use the space. Commissioner Frontero suggested an additional Condition of Approval that only tenants of the current four buildings could use the space. Commissioner Sigg asked if they wanted to restrict it to the type of business operation there.

Commissioner Suesser felt that they all comply with Condition of Approval 3 in the original 1994 MPD/CUP. She did not know under what terms the HOA had used the space but felt that a restriction for that type of use by third parties was appropriate. She agreed that the use should be restricted to the tenants of Buildings A, B, C and D. She remarked that there should be a restriction on the number of employees who could utilize this space. They were increasing the capacity by 800 square feet, which triggered the parking requirement. She asked if the parking requirement was also based on the number of the tenant's employees.

Commissioner Suesser reiterated that the tenant is not in compliance now and will build out the space but not add any parking. She was concerned that in formalizing the space, they could potentially put more employees in that space.

Applicant Wangsgaard reported that they actually reduce the overall capacity or number of office spaces available in the reconfiguration of Building B. They currently have approximately 34 office spaces in a combination of office space and cubicles. He stated under the new configuration, there would be 28 office spaces, so they were reducing the potential number of agents in those spaces. He added that the estimate of 10 to 15 employees/agents came from the nature of the business. They do not have typical 9:00 a.m. to 5:00 p.m. employees; the agents predominately work from home or out in the field. He stated that historically, they would have five employees, plus 5 to 10 agents at any given time during the day.

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Commissioner Suesser stressed that the Planning Commission must plan for the next tenant, and noted there were three levels of office space potentially without adequate parking. She asked if there are window wells that reached the street level. Applicant Wangsgaard stated the basement is entirely underground. In terms of excavation, Applicant representative O'Brien explained that they will excavate approximately 15 feet off the building for footings and the retaining wall system.

Commissioner Suesser reported that they were going to dig down from the surface, which Applicant representative O'Brien confirmed would be roughly 10 feet. He confirmed that the excavated dirt would be hauled outside of City limits. Commissioner Suesser commented that they usually receive information regarding how the excavated soil will be removed from the site.

In response to an inquiry, Applicant representative O'Brien advised that there will be a French drain in the patio to take care of any drainage from the patio. He added that the patio will be heated, so the drain is necessary to remove the snowmelt.

Commissioner Sigg asked if the grade will be level at the retaining wall located at the higher elevation. Applicant O'Brien stated it would actually be a few inches lower than that, and they would taper it to cause it to dam around it versus draining over the wall. Commissioner Sigg further inquired about the length of the existing berm that increased in grade above that level. Applicant representative O'Brien stated that it would max out at roughly nine feet. He stated the berm is taller than the retaining wall, so it would be sloped to the retaining wall and out and around it. He confirmed that there will not be a negative slope toward the patio area. Applicant representative O'Brien also advised that the plan was to install drip irrigation.

Chair Hall was comfortable with the parking given that the current LMC only requires 61 parking spaces and they built 100. Her anecdotal experience of biking through there all the time was that this project was sufficiently parked.

Commissioner Frontero referenced Exhibit E, the License Agreement at page 10 and stated that he found the diagram helpful. Applicant representative O'Brien explained that the diagram on the left showed what the applicant was permitted to build in the basement. The rendering on the right showed the proposed patio. He clarified that these were renderings and showed the original concept. Commissioner Frontero asked the applicant to point out in these renderings the area that was presently a non-compliant use. Applicant Wangsgaard understood that anything outside the 800 square feet of habitable space was non-compliant space. He explained that these renderings were the as-built conditions and the space had already been renovated to this point. Prior to renovation of the building, there was a large open area used as a conference area and a small kitchenette. He felt the rest was generally used for storage.

Applicant Wangsgaard explained that there is an area before the renovation that had historically been used for conferences. He referenced Commissioner Johnson's report of HOA meetings in that location. Applicant Wangsgaard also referenced sales meetings for the brokerage, however those had not occurred since the pandemic and there was no intention to hold sales meetings in that space beyond use of the conference room.

With regard to Condition of Approval 14, Chair Hall suggested more generic language along the lines of "if the use of the building changed such that it would exceed the LMC requirements, then the applicant would return to the Planning Commission."

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Commissioner Suesser understood that the patio is not office space and asked if that space should be included in a parking requirement. She stressed that she was not suggesting that additional parking is needed but as part of the usual analysis she wondered if the Planning Commission was to consider a usable patio area in determining parking.

Assistant Director Ward commented that the parking ratios were based on the requirements outlined in LMC Section 15-3-6 and noted that this patio was intended as an accessory use for the interior structure. She noted that if outdoor dining was a proposed use for an outdoor patio or plaza, then that would be taken into consideration for parking; however, a patio such as the one proposed in this application would not require additional parking.

In response to Commissioner Suesser's inquiry regarding the dimensions of the proposed patio, Planner Niedermeyer advised that at the time of publication of the Staff Report, they did not have the exact dimensions. He added that they had the proposed square footage to be excavated, including the retaining wall. They also had the distance of the retaining walls from State Route 224. It was confirmed that the proposal was to excavate 1,875 square feet.

Commissioner Suesser's main concern was sub-letting the space to third parties, and it seemed to have been covered in the restriction in the use of the space to tenants of Buildings A, B, C and D. However, given the history of the applicant's use of this space and the anecdotal information of it being used by a third party, she suggested making the Conditions of Approval clearer that the space must not be sub-let or lent out in any way to third parties.

Commissioner Johnson agreed and felt that the 1994 Condition of Approval 3 intended to restrict the use. Assistant Director Ward proposed "The use of Basement B is limited to employees and tenant business invitees of Buildings A, B, C and D. Third party sub-letting or use of Basement B is prohibited." She confirmed this would be added as Condition of Approval 15. There was a consensus to include that proposed Condition.

There was a consensus on Condition of Approval 14 to add language that if the use of Building B exceeds the parking requirements in the Land Management Code, it must be reviewed by the Planning Commission.

MOTION: Commissioner Johnson moved to APPROVE 2200 Park Avenue Building B – Conditional Use Permit – based on the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Draft Final Action Letter as amended as follows:

Findings of Fact

1. The Site is located at 2200 Park Avenue, Building B.

2. The Site is recorded as Building B of the Saddleview Office Park Condominium Plat.

3. The Site is located within the Historic Residential – Medium Density (HRM) and Frontage Protection Zone (FPZ) Zoning Districts.

4. The Applicant proposes the excavation of the current landscaping to the basement level of Building B.

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5. The Applicant proposes the construction of two, five-foot-tall concrete retaining walls, constructed in tiers to create a heated basement patio area.

6. The Applicant proposes the installation of stairs leading from the heated basement patio area to the existing at-grade sidewalk and parking area.

7. The Applicant proposes the modification of basement use to increase habitable space and reduce storage space with a determination regarding parking.

8. This Site is not listed on the Historic Sites Inventory, nor has it been included in previous historic resource surveys.

9. On August 1, 2023, the Applicant submitted an Administrative Conditional Use Permit for 2200 Park Avenue, Building B.

10. On August 15, 2023, the Application for an Administrative Conditional Use Permit was reviewed by the Development Review Committee.

11. The Application was scheduled for the August 31, 2023, Administrative Public Hearing.

12. On August 28, 2023, the Application was considered complete.

13. Staff published notice on the City's website and posted notice to the property on August 16, 2023.

14. Staff mailed courtesy to property owners within 300 feet on August 16, 2023.

15. On August 31, 2023, the application was requested to be continued to September 7, 2023, to allow for Planning Staff to gather additional information.

16. Upon further review of previous Land Use Applications, it was determined that the proposals would be required to be reviewed as a Conditional Use Permit rather than an Administrative Conditional Use Permit, which requires review by the Planning Commission.

17. On September 7, 2023, Planning Staff requested that the item be continued and rescheduled for Planning Commission review on September 27, 2023.

18. On September 19, 2023, the Application was considered complete.

19. Staff published notice on the City's website and posted notice to the property on September 12, 2023.

20. Staff mailed courtesy to property owners within 300 feet on September 12, 2023

21. The analysis section of the staff report is incorporated herein.

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Conclusions of Law

1. The proposal complies with the Land Management Code requirements pursuant to Chapter 15-2.14 Residential Development – Medium Density Zoning District.

2. The proposal complies with the Land Management Code requirements pursuant to Chapter 15-2.20 Frontage Protection Zone Zoning District.

3. The proposal complies with the Land Management Code Requirements pursuant to Section 15-1-10, Conditional Use Review Process.

4. The proposal complies with the Land Management Code Requirements pursuant to 15-2.21 Sensitive Land Overlay Zone.

Conditions of Approval

1. Final building plans and construction details shall reflect substantial compliance with the plans dated July 27, 2023, and approved by the Planning Department on August 31, 2023. Any changes, modifications, or deviations from the approved design that have not been approved in advance by the Planning and Building Departments.

2. The applicant is responsible for notifying the Planning Department prior to making any changes to the approved plans.

3. Any changes, modifications, or deviations from the approved scope of work shall be submitted in writing for review and approval/denial in accordance with the applicable standards by the Planning Director or designee prior to construction.

4. Any areas disturbed during construction surrounding the proposed work shall be brought back to their original state.

5. No exterior lighting is proposed or approved as part of this Conditional Use Permit. Any new exterior lighting shall comply with LMC Section 15-5-5(J) and shall be fully shielded and down directed with light bulbs that are 3,000 degrees Kelvin or less. New lighting details shall be reviewed by Planning Staff prior to installation.

6. Final construction plans shall demonstrate compliance with the 1994 CUP/MPD for office space within the Frontage Protection Zone.

7. Final construction plans shall demonstrate compliance with the Saddleview Office Park Condominium Plat.

8. A drainage plan shall be included as part of the application for a Building Permit and shall be approved by the Engineering Department prior to Building Permit Issuance.

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9. Items located on the basement-level patio will need to be arranged so that the exterior staircase is available for egress. The exterior staircase shall remain free and available for fire egress.

10. Existing vegetation shall be preserved and protected during construction. The Applicant shall submit a vegetation protection plan for Planning approval prior to building permit issuance. The Applicant shall confirm the dimensions of the basement-level patio will not impact Significant Vegetation.

11. Prior to installation and final inspection, a Landscape Plan shall be submitted to the Planning Department, which demonstrates compliance with LMC Section 15-5-5(N) Water Wise Landscaping, Park City Municipal Code 11-21, and the Utah Wildland-Urban Interface Code.

12. The retaining walls are limited to two, shall be terraced with three-feet of landscaping in-between, and shall not exceed five-feet in height from Final Grade.

13. Retaining wall materials shall comply with LMC Section 15-5-5, and synthetic stone products such as simulated stone, cultured stone, or pre-cast stone is prohibited.

14. The amended Building B parking requirement is 23 spaces based upon three spaces per one thousand square feet of Net Leasable Floor Area. If a use with a higher parking generation per one thousand square feet of Net Leasable Floor Area is proposed, or if the currently open, shared parking spaces are assigned or restricted to owners, tenants or buildings, the Applicant shall submit an updated parking calculation for each building/use and a parking management plan for Planning Commission approval. If the use of Building B exceeds the parking requirements in the Land Management Code, the Planning Commission must review and consider that use.

15. The use of Basement B is limited to employees and tenant business invitees of Buildings A, B, C and D. Third party sub-letting or use of Basement B is prohibited.

Commissioner Sigg seconded the motion.

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

After a brief recess, Chair Hall called the meeting back to order and confirmed that all Commissioners were present.

D. 1325 Empire Avenue and Parcel SA-200 – Plat Amendment – The Applicant Proposes a Plat Amendment to Amend the Knudson Subdivision and Parcel SA-200 and Re-Subdivide the Vacant Lots into Four Lots to Eventually Allow for Four Single-Family Dwellings. PL-22-05357.

Senior City Planner, Alexandra Ananth, reported that Planning Technician, Jaron Ehlers was present as was the applicant's team and representatives from the Engineering Department. She presented a visual of the proposed project, which included two parcels. Parcel SA-200 was shown in red and is a 50' x 75' lot totaling 3,735 square feet. This parcel consists of Lots 6 and 7 of

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Block 19. The parcel highlighted in blue was known as Knudson C, which is 7,125 square feet in size. A portion of Lot C consisted of a part of vacated Norfolk Avenue. This portion of Norfolk Avenue was vacated by a Resolution recorded in 1983 that included portions of Lots 8 and 9 of Block 19. She presented another image that highlighted in yellow the portion of Norfolk Avenue that was vacated. Planner Ananth explained that south of this parcel, Norfolk Avenue was still considered public Right-of-Way. The total site was outlined in blue.

Planner Ananth reported that the proposed lots will have access to a road via a private shared driveway easement that would connect the lots to Norfolk Avenue. She noted that Norfolk Avenue was privately maintained because it was not constructed to City engineering standards. She presented another visual of the site that showed the lots in relation to the platted Norfolk Avenue and the as-built Norfolk Avenue. She explained that Norfolk Avenue's 50-foot-wide platted ROW was outlined in orange, but it was only built out to approximately 20 feet. All of the lots adjacent to the platted Norfolk Avenue ROW had access to Norfolk Avenue ROW via the Non-exclusive Encroachment Permit license granted in 2003 to the builder of the three lots outlined in green. She noted that this Permit gave the builder the right to build, maintain and use the improvements he would install within the City property and Right-of-Way.

Planner Ananth stated that the platted Norfolk Avenue was considered a dead-end road and was less than the 650-foot limit established in LMC Section 15-7.3-4. The applicant proposed a shared driveway easement that would connect the lots to Norfolk Avenue. She next presented a plan drawing of the applicant's proposal and noted the Norfolk Avenue ROW outlined in orange, and the proposed shared driveway outlined in purple. This drawing showed how the road would connect. Planner Ananth next presented an overlay of the proposed lots on the driveway. She explained that each lot would have a portion of the driveway within the lot, and the Setbacks would be measured off the lot lines. She pointed to the four lots, named Lot A, Lot B, Lot C and Lot D.

Commissioner Suesser asked Planner Ananth to identify the location of the utility easement. Planner Ananth explained that the utility easement is shown at 30 feet, which is wider than the proposed shared private driveway. Commissioner Suesser asked if there was a restriction on building on the utility easement. Planner Ananth stated there was a restriction, however, because of Setbacks, none of the homes would be located on the utility easement. Only the driveway would be located on the utility easement. She believed that the driveway would be heated.

Planner Ananth presented a table that detailed the lot lengths and widths, as proposed. She advised that they all met the minimum Single-Family Lot Size for the Recreation Commercial ("RC") Zoning District, and none of them were large enough for a duplex. She confirmed that four Single-Family lots were proposed. She explained that she backed out the driveway area from the lots in order to provide a sense of what the project would look like if the driveway was common area. She presented the Maximum Building Footprints allowed in the zone based on the Lot Area, both with and without the driveway area.

Planner Ananth stated that the Planning Commission could include a Condition of Approval that the applicant could not use the driveway to count toward the Maximum Building Footprint. She noted that if the lots were conditioned to only meet the Minimum Lot Size of 25' x 75', the Maximum Allowed Building Footprint would be 843 square feet per Lot. Planner Ananth expressed that the applicant responded to the questions posed by the Planning Commission at the July 2023 hearing regarding compatibility with the RC Zoning District, and questions about slope, topography and drainage. The applicant provided draft easements and Covenants, Codes, and Restrictions ("CC&Rs") as requested.

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Staff cited examples in the Staff Report of other private shared driveways in the City, including upper Norfolk Avenue, Anchor Avenue, Ridge Avenue, and Rossie Hill Drive. She advised that Staff received two public comments from abutting property owners on Norfolk Avenue, and those public comments were forwarded to the Planning Commission. Planner Ananth stated that the proposal to subdivide two lots into four Single-Family Dwelling lots complied with the Subdivision procedures outlined in LMC Section 15-7-1. It would also further the Old Town goals under the General Plan. She added that shared driveways were preferred under the Historic District Guidelines.

Additionally, the Lots met the Zoning District requirements, and this proposal would increase the housing stock near the resort. She mentioned that Single-Family Dwellings were common in the zone and neighborhood. No public street, ROW or public utility easements would be vacated. Planner Ananth also advised that there were no remnant lands created by the proposal.

The proposed Site Plan was reviewed by the Fire Department and Public Utilities, and she reported that drainage would meet City Engineering standards and all runoff would be contained on site. Planner Ananth suggested that the Applicant contribute to the maintenance and snow removal of Norfolk Avenue to 13th Street. Staff recommended the Planning Commission review the Plat Amendment, hold a public hearing, and consider forwarding a positive recommendation to City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval.

Commissioner Sigg asked why there was a "jog" in the shared driveway outlined in purple and where it tied into the area highlighted in yellow. Planner Ananth believed it was above grade, so the area would need to be excavated. Commissioner Sigg understood this was a two-dimensional drawing and did not show the current existing condition. He noted that where the "jog" exists, the grade falls away to the east. Planner Ananth confirmed and verified that they previously discussed snow storage, and advised the Applicant to present a slide at the last meeting that included some snow storage area within each Lot. Commissioner Sigg assumed that the snow storage would be at a lower elevation than the connection to Norfolk Avenue.

On behalf of the Applicant, Bill Van Sickle, AIA, Van Sickle Design & Drafting, stated that to the east, the grade would drop off. He explained that the "jog" exists because the plan was designed to line up exactly with the current pavement on Norfolk Avenue. The "jog" tied pavement to pavement and is level and would not require any excavation or fill. He agreed with Commissioner Sigg that some sort of grade wall would be required in that location.

Commissioner Sigg asked about the elevation from the snow storage to where the driveway comes into the existing pavement. Applicant representative Van Sickle stated it was likely around two feet, and then it sloped to the end of Lot D at about a 10-foot difference. With regards to snowmelt, Applicant representative Van Sickle advised that the civil team designed subterranean detention basins for that snowmelt. He confirmed that the intention was that snow would not drain onto adjacent properties.

Commissioner Frontero asked about locations for snow storage. Planner Ananth stated there would be areas in between the Lots, as well as an area in the northern corner. Commissioner Frontero understood that both snow storage locations along Lot D would require some sort of retention. Planner Ananth added that if this project were approved, the site would be further engineered to meet City standards. Commissioner Sigg asked if the onus for that would be on

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the owner of Lot D because it was part of the Lot D property. Planner Ananth confirmed and added that currently Lot D is the largest in this Subdivision.

Applicant representative, Justin Keyes reported that Gavin Steinberg would present on behalf of the Applicant. Applicant Steinberg addressed questions regarding the size and orientation of Lot D and explained that they made Lot D a corner lot. Therefore, the Setbacks are larger, which would allow for more snow storage and a smaller home. He presented a graphic and explained that they looked at the 176 lots in the RC zone. He reported that 27% of these lots were either single lots or 1.5 lots. Applicant Steinberg stated that 73% of the lots were non-traditional lots, meaning they were wider than 1.5 lots, or different than the east/west orientation. He noted that 15% of the lots were in the north/south orientation.

Applicant Steinberg stressed that the fact that Lot D would not conform as an east/west single lot was not unusual in this zone. He stated that it was worth noting that the City-owned property immediately abutting this property has a house facing in the north/south direction. With regard to the shared driveway, Applicant representative Keyes stated that what is typical in Old Town was atypical. He noted that the configuration in this application was exactly like that on the City-owned property next door, which has a Historic Structure facing north/south. He mentioned that as he prepares for these presentations, he considers the original miners that built these Historic Structures, and their thought process as compared to how the current planners were trying to rethink it. He applauded the work done by Applicant Steinberg, who looked at every single lot to determine what each one looked like in terms of size and orientation. He stressed that this proposal was very consistent with what exists in the RC zone.

Applicant representative Keyes addressed the debate between “shared driveway” and “City road.” He stated that Staff did a great job of researching this to determine what is a road and what is not a road and felt this was a unique issue to Old Town. He noted that 100 years ago, it was not platted with a tape measure, which explained why they have these circumstances where they have to look at shared driveways instead of roadways. He noted Staff’s conclusion that the only way they could put a road in was if they demolished a Historic building on the corner of Norfolk Avenue and 13th Avenue. Instead, they have an existing ROW, and this application proposed a shared driveway beyond that existing Right-of-Way.

Applicant representative Keyes commented that the Code allowed shared driveways and actually encouraged them. He offered that this proposal meets the requirements for a shared driveway. He said that the analysis was quite simple: the Road and Streets Code did not apply because this is not a road. He added that there was a clause in the Code that specifically states if something were not a road, this Code would not apply. He emphasized that they highlighted this fact in the letters, and Staff highlighted it in the Staff Report. He commented that the City hired excellent consultants to tell them what the Code says and guide the City on these issues. Based on his own review, he confirmed that this was in the Code.

Applicant representative Keyes next presented a graphic to respond to the questions posed about snow storage and where the snowmelt would drain. He commented that it was a bit early for these types of questions as they were just at the Plat Amendment stage; however, the Applicant retained engineers and consultants to provide input on that based on the Planning Commission’s feedback. He reported that these consultants have advised that there would be plenty of room and all of the water could be captured on site. He stressed that they wanted to ensure that this proposal would not negatively impact the neighbors and have provided support from the experts

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to demonstrate that it would work. He noted the City's experts concurred that the proposal would work.

Applicant Steinberg added that the engineers stated the site would need 511 cubic feet of water runoff retention and identified 750 cubic feet of water runoff detention areas. Therefore, there was excess room in the event it would be needed.

Applicant representative Keyes reiterated that there was plenty of room to deal with the grade, and when those issues come up in the process and future submittals, they would have fully detailed plans that would account for how it would be accomplished. He noted that it might be that basements would retain some of it, but that was part of the design schematic that would come together after the Plat Amendment stage. He cautioned that they do not put the cart before the horse but commented that the applicant had done enough by retaining engineers would opine that it would not be an issue.

Applicant representative Keyes next addressed the Planning Commission's request to see draft CC&Rs. He stated those were prepared but commented that they could not be recorded until after approval of the Plat Amendment. They also were trying to mitigate the snowplow issue and would be happy to contribute up to 50% to clear the adjoining ROW as well. He fully conceded that snow removal seemed to have landed on one man's shoulder and he understood those concerns and the fact that the neighbors had not contributed to those efforts. He stressed that the Applicant would be neighborly and contribute to help maintain the road. He noted that was in their own best interests as they were investing a substantial sum of money in these homes, and they want to be able to access them. They could include in the CC&Rs that the HOA would contribute a minimum of 50% of the clearing and maintenance costs for the ROW.

Commissioner Sigg applauded the Applicant for providing the back up data for these questions. He noted this involved rigorous scrutiny, and he thanked the Applicant for providing the data.

Chair Hall opened the public hearing.

Andy Holland reported that he owns 1315 Norfolk Avenue, which is located between 1319 Norfolk and 1307 Norfolk. He has lived on the street for 12 years, and Mark Brian, the owner of 1319 Norfolk Avenue, neither paid for, nor plowed, the street by himself. In fact, the speaker and the owner of 1307 Norfolk Avenue did a lot of that work and added that the three owners own a snow blower together and share those expenses. He stressed that it was not a one-man show where the neighbors were unfriendly to one another. He also stated that Norfolk Avenue is a road. He is an engineer, and he measured the width of the roads on all the blocks of Norfolk from the ski run to the end of their street. The roadway measured at 18 feet plus or minus 4 inches. The driveways of his and his neighbors are 12 feet wide. He noted that the street in this location also had curbs on the north side, which were completely the same as those on the other blocks of Norfolk Avenue.

Having lived through last winter, and having owned this home for 12 years, Speaker Holland did not believe that the plan for snow removal was adequate. He opined that they would likely have significant issues and noted the City-owned home at 1302 Norfolk Avenue was several feet below the grade of the curb in its current configuration. Speaker Holland understood that the basement of the City-owned house flooded. He did not feel that the claim that nothing could be done because of the Historic Structure at 1302 was valid. He stated there were two sheds to the north

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that were also designated as Historic, and which were torn down this spring when the roof on one collapsed due to the snow load. The second structure listed to the north.

Speaker Holland stated that Mark Brian was out of the country and sent him a text asking him to represent that he did not favor approval of this plan. Additionally, there was no plan for the maintenance of the street. He stated that until these issues are addressed, this application should not move forward. Speaker Holland thanked the Commission and noted that several of the Commissioners had taken the time to visit the area to look at the issues. He noted that the Commissioners do their job with a desire to achieve a common good. He suggested that given the plans for 1302 Norfolk Avenue and the other City developments that the Commission needed to take a systems approach and a broader view to make a broader decision for all the citizens affected in the 1300 block of Norfolk Avenue.

Deb Rentfrow identified herself as an Old Town resident. She referenced the Applicant's claim that this project would be in keeping with the RC zone, yet of the four examples included in the Staff Report on private driveways, none of them were located in the RC zone. She noted that the example on upper Norfolk Avenue has an ingress and egress, which was different that this proposal. The examples on Ridge Drive and Rossie Hill Drive have direct ROW access that was not being privately maintained by the neighbors. These latter two examples were also not blocking anyone else's access to their home. Speaker Rentfrow could not comment on whether the example on Anchor Drive was similar to the one being proposed but stated that three of the four were not at all similar and were not located in the RC zone.

Speaker Rentfrow mentioned that the issue of garbage was raised in the CC&Rs. She observed that garbage trucks were currently unable to go down Norfolk Avenue, and she confirmed with one of the homeowners that the existing homes and properties all pull their garbage cans to Norfolk Avenue and 13th Street. She assumed that the four proposed homes would also have to be dragged down the private drive to Norfolk Ave. and 13th Street. She opined that having 20 garbage cans in that location could potentially create an issue for people wanting to get onto Norfolk Avenue. Referencing the private driveways used by Staff as examples, Speaker Rentfrow felt garbage pickup would not be an issue for those owners, whereas it would be an issue in this location.

William O'Connell reported that he is a 26-year veteran of the Marine Corps and Navy and listed where he served. He wrote two letters on February 20th and May 10th wherein he set forth why he felt the road was not safe and he asked the City to assume the plowing. He asked if that would be addressed because if the road is not safe, he could not imagine the future with this development. Speaker O'Connell did not understand why the Historic home on the street was designated Historic, because he thought it was built in the 1970s. He reiterated that he has written two letters in which he asked the City to address the safety and to take over the plow service. He did not understand how a driveway in a driveway could be considered a road. Speaker O'Connell asked if the City Planners, as a team, could address the issues raised in his letters. He recalled that he read his May 10th letter during the July Planning Commission meeting, and no one had ever addressed the safety concerns he raised in his letters.

There was no further public comment. Chair Hall closed the public hearing.

Commissioner Shand referenced Figure 8 of the application that showed an image of existing conditions of the dead-end portion of Norfolk. He asked if the width of the road was compliant from the stairs to what is shown as the gutter. City Engineer, Rebecca Gutknecht explained that

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there are a couple of ways the road is not compliant, one of which was in the road's width. She was unsure of the exact width but stated that for it to be compliant it would need to be 20 feet. Engineer Gutknecht explained that the roadway section is insufficient, and they will need it to come up to a remaining life cycle of 15 years to become compliant with City standards.

Commissioner Shand asked if it was possible to make this road City compliant, which might solve some of the issues with respect to the existing homes and the residents' concerns with an extension of this section of Norfolk Avenue into a private driveway. Engineer Gutknecht advised that in order to widen the road to a sufficient width, the Historic home would need more evaluation to address that would be necessary to widen the road. As far as plowing, Commissioner Johnson stated that would not go through the Planning Commission; rather, it would be a special request to City Council for approval for the City to permanently take over the services. Planner Ananth explained that the City would effectively have to abandon the current Encroachment Agreement, construct a turnaround and agree to assume the snowplowing if Norfolk Ave. could be sufficiently widened to meet City standards. She agreed with Commissioner Johnson that it would require City Council action separate from this matter.

Commissioner Shand raised the issue because it seemed as though the main concern was the safety of the road and snow removal. Planner Ananth agreed, and felt the speaker was referring to safe navigation for residents. She added that the sight lines were good on that road, and it was slightly narrower, but she would not necessarily say there were unsafe conditions.

Commissioner Johnson mentioned the public comment regarding the garbage and stated that it was not something he considered until now. He stated it came back to the road making this application so difficult; the road was so horribly designed, so the question was whether there was something they could do to help. At this point, they would have to demolish the blue house.

Commissioner Sigg noted that it would appear that the curb and sidewalk on Norfolk were in the ROW, and that the first driveway beyond the stairs was encroaching into the ROW. He stated this was one of the reasons why this was being discussed, because that forced the "jog" in the road. He was okay with the number of lots and felt the Applicant had done a reasonable job in trying to lay them out. However, when he considered the road itself and some of the comments from the adjacent owners, there was no agreement in place regarding cost sharing. He felt this created an issue as it related to LMC Section 15-15-1.

Commissioner Sigg asked if a Circulation Study was done. He mentioned the "No Parking" signs and stated he was trying to formulate a proactive solution here. He asked if that could mean a public/private partnership because they were talking about City-owned property and what may or may not be a Historic home. He reported that he had visited this area and observed that if vehicles were parked on both sides of the street, there would be no way for a car to get through. With regard to the "jog" in the road that creates the driveway for the first house, if two cars were parked offset in that location, and someone tried to skirt that dogleg they would end up in the owners' front door. He felt this was a health and safety issue. He applauded the work with the Fire Department and the stairs and was okay with that part of this proposal. Commissioner Sigg struggled with the condition of the road and the safety of the existing residents and the new residents. He also expressed concern that no agreement regarding snow removal was in place and felt negotiations on such an agreement would become contentious. He asked if there was an expert that could address these issues and noted that the issue was one of mitigating non-conforming circumstances that exist on a very substandard road.

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Commissioner Sigg felt Staff did a great job in the presentation of the prior questions and in providing the data. He noted the questions discussed but stated that the bottom line was this was a completely non-conforming situation outside of the applicant's control. He wondered if there was an opportunity to improve the condition.

Commissioner Suesser stated that the data provided by the Applicant was helpful, but it would have been more helpful if there had been an analysis of the lot sizes of Single-Family homes in the RC zone. She noted she had requested that information just prior to this meeting, but Staff was not able to provide it in time. She noted the provided data was helpful, but there were a lot of different sized lots and uses in the RC zone. She would like to know the number of Single-Family lots, particularly on Empire Avenue and Woodside Avenue that were not 25' x 75' lots. She agreed with Commissioner Sigg that the non-conforming road is an issue in terms of safety. In terms of the Fire Department's letter and input, she asked Staff if the Department required the Single-Family homes to be protected with automatic sprinklers. Planner Ananth could not recall, but she would look it up.

Commissioner Suesser also agreed with Commissioner Sigg that none of the provided examples of private driveways emptied onto a substandard non-conforming road that is not maintained by the City. They all emptied onto a public road maintained by the City; therefore, she did not agree that the information provided was a fair comparison. She agreed with Staff's recommendation that the Applicant make the shared driveway its own Lot, owned as common space by the HOA. She felt that would solve some of the issues she had with this proposal but would add that the snow storage areas should also be included in that common space Lot owned by the HOA for snow storage. She strongly recommended the Commission include that requirement.

With regard to the fire access stairs required by the Fire Department for the development of these lots, Commissioner Suesser wanted a Condition of Approval that the public staircase to be constructed by the applicant be open and available and built to public standards so that pedestrians can move off of Empire Avenue down those stairs at lease to 13th Street and the Library. She noted that there had been accidents on Empire Avenue, and the sooner they had a staircase connecting Empire Avenue to Norfolk Avenue, the better. She noted she was not asking that the applicant be required to continue the staircase to Woodside, but the fire access stairs required by the Fire Department should be open to the public.

Commissioner Suesser asked if the shared driveway will be heated as she did not see that detail in the Conditions of Approval. Applicant representative Keyes stated that would depend partially upon what was done with the rest of the roadway. He stated that one of the major concerns he had heard from the Commission is that they would like to see an effort to improve conditions on the existing ROW, which the Applicant was willing to do. He stressed that Applicant had a vested interest in having good access to their properties. He explained that they could not heat the ROW, so if they end up clearing snow on that ROW, they may not heat the shared driveway; rather, they might just have a single contract to clear the snow throughout. They originally contemplated heating the driveway, but if they go a different direction with the ROW, then they would not heat it.

Commissioner Suesser commented that at the last meeting, she specifically requested the applicant meet with the City to try and reach a compromise or understanding to improve that road, and apparently that had not occurred. She felt the Commission needed to make a decision on this application based on what was in front of them, which did not include the City improving North Norfolk Avenue. Commissioner Suesser assumed there were no City contributions to improve

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North Norfolk Avenue, and wanted to know if the shared driveway would be heated. She explained that she was asking this question because Condition of Approval 6 specifically states that the driveways could not be heated because it lies beneath the utility easement. Applicant representative Keyes explained they have a 30-foot-wide utility easement in that location, and a 19-foot-wide shared driveway, so there was a substantial amount of utility room on either side of the driveway. They met with the City and attempted to come up with a good solution, but it was difficult when dealing with existing conditions like these. This ROW had been in existence for nearly 20 years and is substandard. He added that there were many stakeholders, whom he did not mean to offend, and it had not been an ideal scenario. They have some owners who would prefer to see the City take over that road.

Applicant representative Keyes stated he had been involved in several shared driveways, and the City had been hesitant to set the precedent of coming in and maintaining substandard roads because of liability and other issues. He added that there was a Historic Structure on the corner, and there were restrictions in the Code against moving or demolishing Historic Structures, and the City was required to play by the same rules that it holds applicants to.

Commissioner Suesser reiterated that the Applicant had not presented anything with respect to any decision reached with the City; therefore, the Commission must process this application as it exists. Applicant representative Keyes told Commissioner Suesser what they were willing to do, which was to re-topcoat and address the ROW as it exists. He added that Applicant was willing to agree to maintain that roadway in perpetuity. He clarified that this meant the ROW from the shared driveway to upper Norfolk Avenue. Applicant would maintain that road, including all snow clearing, in perpetuity.

Commissioner Suesser asked if this meant the Applicant would clear the snow from North Norfolk Avenue and from the shared driveway and not install a heated driveway. Applicant representative Keyes confirmed that was correct and stated that if it did not work to install a heated driveway because of the way the snow clearing would go, they would not heat it; rather, they would clear and haul the snow as needed under a single contract. He confirmed they would not push the snow to the adjoining lots to the north.

Commissioner Suesser noted the representation by Planner Ananth that the utility easement will encompass the shared driveway, and according to Condition of Approval 6 felt that the Applicant would install landscaping and the driveway at its own risk because the City might need to access the utilities underneath that road. Planner Ananth explained that it does not matter if the driveway is heated or not; rather, it is another agreement the Applicant had to make, and they would have to assume the liability that if the City needed to take it up, the repair would be at Applicant's expense. She added that it really came into play with regards to engineering and drainage calculations.

Commissioner Sigg added that another non-conformity is that there appears to be a hydrant located in a wall, and while he understood they could hook a hose up to a hydrant on 13th Street, there was a real disconnect. He stressed the fact of this hydrant and the substandard road and noted it would certainly not make it easy for the firefighters. Planner Ananth offered that technically, no parking is allowed next to a fire hydrant. Applicant representative Keyes stated they would be happy to mark that and believed that the Code stated that vehicles couldn't park in front of a hydrant. They would be happy to put more placards up should that be helpful.

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Commissioner Sigg asked whose purview it is to do that. He understood it was part of the ROW, but it was also part of the non-conformity that exists along that entire section of road and outside the purview of these four lots. Assuming the shared driveway would not be heated, Commissioner Suesser wanted clarification on whether the 87.5' x 19' driveway would have enough snow storage to accommodate that much snow removal on site. She noted there had been enforcement issues surrounding snow removal in Old Town, particularly at King's Crown. She stressed that snow storage was a big issue in Old Town and wanted to understand the Applicant's plan.

Commissioner Suesser appreciated the Applicant taking on the responsibility for North Norfolk Avenue and agreed it would be in their best interest so they could access this Subdivision. She reiterated that her concerns were public access on the stairs and requiring a common space Lot to include the shared driveway and adequate snow storage.

Commissioner Shand applauded the Applicant for offering to take care of North Norfolk Avenue in perpetuity and asked how that would be memorialized. He noted that ultimately there would be four new owners added to the three existing owners.

Applicant representative Keyes commented that they already drafted the CC&Rs that address snow storage, and they were contemplating an HOA. The cleanest way to handle it would be through an HOA that would manage it moving forward. They have it ready to record once the Plat is approved.

Commissioner Shand understood Commissioner Suesser's concerns regarding snow storage and the Applicant's Snow Storage Plan. He noted his understanding of the Fire Department's review of this application as well. He asked if Applicant's offer to take care of snow removal in perpetuity would relieve the burden from the existing homeowners, or whether it would include them. Applicant representative Keyes stated it would not include them because the HOA could not control them. He confirmed that the HOA would only include the four new homes.

Commissioner Frontero stated that the initial offer was to pay up to 50% of snow removal costs and noted that now the Applicant contemplated assuming 100% of those costs. Applicant representative Keyes confirmed that they had talked about it but did not have a consensus until hearing the Commission's feedback. He reminded that the Applicant would also include installing a new topcoat.

Commissioner Frontero felt that the Applicant's agreement was a wise decision and made him more comfortable moving forward. He was interested in seeing where the snow could actually be stored. Applicant representative Keyes stated that the CC&Rs contemplated that they would haul the snow off site if necessary. He noted that occurred at many locations in Old Town. He reminded that the site had more than the typical amount of snow storage area, but if they needed to, they would haul it off site. Commissioner Frontero agreed with the suggestion to make the shared driveway common space, and the snow storage included in that calculation.

With regard to the stairs, Commissioner Frontero stated it would be nice if the stairs required by the Fire Department could be built to standard to allow them to be public stairs. He asked if they could build public stairs that would meet both City and Fire Department standards. Applicant representative Keyes stated they would like to build public stairs; however, the problem was they did not have a connection with Empire Avenue. Applicant Steinberg explained that if the fire stairs were made public, there was another lot before Empire Avenue not owned by Applicant. The Applicant would not be allowed to cross onto this other property since there is no easement for

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that; rather, the easement Applicant has with that adjoining property owner was strictly for fire access. He stated that they had spoken with members of the City, and if they could build a public staircase that would work with the timing, the Applicant would be willing to contribute to that staircase. If not, then when the City is ready to build the public staircase, they have the easement in place for the path to allow for public access through the property to the public stairs.

In response to an inquiry from Commissioner Frontero, Applicant Steinberg confirmed that Applicant was agreeable with the public walking through the shared driveway to access the stairs; however, until public stairs are constructed, the public could just walk to the end of the property. Planner Ananth confirmed that they are working with the Applicant to potentially locate those stairs on City property, with Applicant making a contribution towards construction. She stressed that was the ideal situation, but the City was actively figuring out the Site Plan for Woodside, Phase 2. She reiterated that was the goal if it could be done in time. She confirmed that the Knudson's own the lot in front, and the City owned the adjacent area to the northwest.

Commissioner Sigg noted that the City owns the Senior Center and wondered what would happen to the north at the end of the driveway. Planner Ananth advised that was part of Woodside, Phase 2.

Commissioner Frontero appreciated that the Applicant took the suggestions from the prior meetings and incorporated them into this application. He felt the Commission would like to make a decision on this application, and they had to vote on what was in front of them, which included the ROW and the condition it was in currently. He stated that the substandard road was a major concern; however, he acknowledged that the application was not directly related to the City fixing that road. He stated they would like to see some commitment to improve that road, and he did not know if they would get there.

Commissioner Frontero commented that this was a difficult decision for the Commission, as it was a very unique situation with less-than-ideal conditions. He noted also there were some safety concerns as pointed out by Commission Sigg. He felt the neighbors would have to work together on the road and acknowledged that some of that burden would be taken off the neighbors by virtue of the HOA maintaining the road. He commented that was a good start.

Commissioner Sigg expressed his view that simply resurfacing the existing road will not suffice, as a two-inch overlay would not change the conditions of the road. He stated that this issue went beyond just resurfacing the road.

Commissioner Suesser did not believe the Applicant answered Commissioner Frontero's question about who owns the lot that would connect the stairs to Empire Avenue. Applicant representative Keyes reported that the Knudsen's own that lot. Commissioner Suesser asked if the Knudsen's are also the owners of the four lots. Applicant Keyes responded that the Applicant is the owner of the four lots. He added that the Knudsens might have been a prior owner in the chain of title, but the Applicant was the current owner.

Commissioner Suesser asked Planner Ananth to confirm whether the Knudsen's ever presented a proposal like this. Planner Ananth explained that the Applicant is the current owner of the parcels that the Applicant had proposed to subdivide into four lots. The Knudsen's own the property directly to the west and they provided Applicant the fire access easement. She noted, however, that the City owns Knudson A, which is the Woodside, Phase 2 project directly north of

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this proposed Subdivision. The City could install stairs adjacent to the Applicant's property line that connect from Empire Avenue to Woodside Drive.

Planner Ananth explained that the Applicant has the right to access their lot for fire safety through the Knudson Lot, not through the City's Lot, so they could not provide public access stairs on the Knudson Lot. If the Applicant were to reach an agreement with the City to contribute towards the public staircase, that staircase would be built just north of Applicant's property. Commissioner Suesser understood but would have liked to see some effort by the Applicant to approach the Knudsen's to get public access instead of just fire access. She stated that a car on Empire Avenue fatally struck someone, and it would be helpful to be able to move pedestrians off of Empire Avenue and down these stairs. She stressed that when they look to a public benefit and good cause to approve this development, public stairs would be a great public benefit. Applicant representative Keyes reported that they approached the Knudsen's and requested the right to build public access stairs and they denied that request. Planner Ananth added that on 13th Street, there is a set of public stairs and 14th Street is a public ROW. The City would like to create a mid-block ROW, but there was sufficient east/west access around this block.

Commissioner Suesser reiterated that a pedestrian on Empire Avenue was killed, so she did not know if there was sufficient public access off of Empire Avenue. She felt it was ridiculous to have only fire access stairs. She understood that Planner Ananth stated that the public access stairs that would be installed as part of Woodside, Phase 2 would also serve as fire access to this Subdivision. Planner Ananth agreed that was potentially correct.

Commissioner Sigg focused on the City property to the north in terms of snow removal. He felt that the easiest method would be for the snow removal equipment to push snow to the north and dump it onto City property. As he considered the grade going down to the existing Senior Center, he expressed concern about drainage going down to that building.

Chair Hall reviewed some of the key issues to see where there was consensus. Commissioner Johnson echoed Commissioner Sigg's comments regarding the snow storage. He also mentioned some points raised by Commissioner Suesser about not counting the shared driveway towards the Building Footprint. He requested a response from the Applicant. He appreciated that they reached a point where the Applicant would maintain the entire road. He asked the Applicant to respond to the concerns expressed during this meeting. He also wanted some information on the garbage issue raised earlier.

Chair Hall reported that Assistant Director Ward indicated that Commissioner Van Dine was able to log into the meeting and invited her comments. Commissioner Van Dine indicated that she joined when Commissioner Suesser started speaking and felt comfortable participating on this Agenda Item. She expressed that her questions were covered by the discussion, and that her big question was the common space and the ROW.

Commissioner Suesser asked about the Applicant's mention of a retention basin beneath the Subdivision and wanted an understanding about where that water would go and if the retention basin would connect to the City's storm drains. Applicant representative Keyes stated that the issue raised regarding trash was an excellent point and was not something that had come up previously. He stated that first off, they would need to discuss it with Public Works to find out where they would want the trashcans placed for pickup. Internally, they would address the trash issue through the CC&Rs. They would be happy to include a Condition of Approval that trash pickup would be addressed through the CC&Rs, and suggested a clause that trash be taken out

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to a location designated by Public Works. He offered that typically, trashcans were moved to the end of any ROW; however, he felt it best that they consult with Public Works.

With regard to snow removal, he stated that the concerns that snow would just be pushed off the back of the driveway were valid. He stressed that they do not want to be a bad neighbor and could address this in the CC&Rs. Applicant representative Keyes stated the Applicant is already taking on snow removal within the CC&Rs, and he would be agreeable to a Condition of Approval that the CC&Rs include a clause making clear that no snow would be pushed onto any adjoining lots. He commented that pushing snow onto an adjoining lot would be trespass and the City could sue the Applicant if they did that. He reiterated the Applicant's willingness to include something in the CC&Rs that would not push the snow onto any adjoining lot. Applicant representative Keyes added that they identified snow storage locations and Staff had signed off on those locations. If these locations become full, they anticipated that they would have to haul the snow off site.

With regard to stormwater retention, Applicant representative Keyes advised that they had an engineering calculation that concluded the site has adequate room within the location to deal with the site's own storm water runoff, including snow melt. They did not anticipate that the runoff would go through public storm drains; rather, it would percolate in the retention basins throughout the site. He explained that they need to retain 511 cubic feet of water, and they have the capacity to retain up to 750 cubic feet. The more specific plans regarding this item would be subject to Building Department review, however, he confirmed that the engineers advised that they have the room based on anticipated loads.

He next addressed the common space issue and noted that currently they did not specify the shared driveway as common space. He stated it would impact the project profitability because it would reduce the size of each individual property. Therefore, this was something the Applicant would have to consider to ensure that it would not so severely impact the project in light of the other expenses they would assume that it no longer penciled. He felt the Applicant could provide a response at this meeting if they had the time to consider it.

The Planning Commission took a short recess.

The meeting reconvened and Chair Hall confirmed that all in chambers were present, as were those Commissioners appearing online.

Commissioner Shand referenced Commissioner Suesser's suggestion that the snow storage on the property should be in common space. He suggested including in the CC&RS the designation of common space within the Lots proper. He noted that would reduce the Lot Size, although likely not house size, and create a cleaner property line. He understood Commissioner Suesser's concern with ensuring that the areas on the lots intended for snow storage were actually used for snow storage.

Applicant representative Keyes stated they could address that through the CC&Rs. He reported that there were different ways to accomplish that, and it would not necessarily have to be designated common area. He stated the HOA could have an easement over each Lot and have the exclusive right to maintain over that easement. He understood Commissioner Shand's concern and agreed that they needed to ensure that the HOA had the ability to store the snow on the property, and that would be the intent of the CC&Rs. He felt this was addressed in the current version of the CC&Rs but would tweak the language based on the discussions.

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Chair Hall suggested modifying Condition of Approval 10 to add language. Commissioner Shand suggested that language state there are dedicated areas for snow storage on private property that shall be made available to the HOA.

Commissioner Suesser disagreed with this approach and felt it would be better to reserve these locations as common space. She understood that these snow storage areas were proposed when the heated shared driveway was proposed. Now that Applicant would clear the shared driveway, she wondered if the proposed snow storage was adequate for this road. She had come a long way with respect to this application but felt there were still gaps. She felt that the snow storage areas should be part of the common area of the HOA and not part of Lot D.

Applicant representative Keyes stated that the snow storage designated and reviewed by the engineers was not based on a heated driveway. He noted that with a heated driveway, snow storage would become moot, so the calculations were based on a non-heated driveway. He added that Applicant would prefer to have the shared driveway run over the property lines as they proposed. They could address the common area through the CC&Rs even if it is on private property, and they do that on a regular basis. Applicant representative Keyes did not think they needed to go back to the drawing board on how they laid out the lots, and the Applicant would prefer not to have to do that.

City Engineer, John Robertson reported they had seen preliminary calculations for the runoff coming off this site, and the Applicant provided enough volume to capture all of that runoff from the non-permeable area. He represented that his department was comfortable that the areas they provided would be adequate to handle the runoff.

Commissioner Suesser asked about the dimensions of the areas. City Engineer Robertson stated that Applicant provided those dimensions and the volume calculations for them. Commissioner Suesser expressed that she would have liked that information shared with the Planning Commission. City Engineer Robertson commented that this information was not something typically required at this stage, which was why Staff had not talked about it much. However, he reiterated that it was provided ahead of time, and based on the department's cursory review they found it to be adequate and the Applicant met the required standards.

Chair Hall acknowledged the concerns regarding snow storage and suggested it might be helpful to arrive at a consensus of where the Commission stood on the issue before moving on to a different topic.

Commissioner Sigg wanted to see some consensus with the adjacent property owners in spite of the fact that Applicant was willing to push it all the way to 13th Street. He noted the adjacent property owners would be pushing snow from their driveways, and currently he was hearing conflicting views. He felt it was important to hear from the neighbors who would push the snow out from their driveway into the area where Applicant would then remove it. He explained those driveways were perpendicular to Norfolk Avenue.

Chair Hall asked Commissioner Sigg if he was suggesting that she re-open the public hearing. Commissioner Sigg wanted to see more collaboration and heard that the City did not really care about this road. He referenced LMC Section 15-15-1, which includes such things as providing public amenities and benefits and resolving existing issues and non-conformities. He wondered

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if the City did not really care if the Applicant paves it, would they care if the Applicant undertook to widen the road.

Commissioner Sigg asked if the Applicant spoke about "No Parking" signs and stressed that they could not just put such signs anywhere they wanted and felt they would have to get some kind of permission. He stressed that he did not see any collaboration yet, and opined the issues of snow, the Lots and their orientation were secondary. For him, it all fell on LMC Section 15-15-1 and good cause. There were non-conformities and health and safety issues on the road.

Commissioner Sigg suggested that the Applicant make these attempts to discuss these issues with Park City Municipal Corp. He stated this was the gist of his concerns.

Commissioner Johnson asked Commissioner Sigg if some of his snow storage concerns could be alleviated if the Applicant agreed to reduce the Maximum Building Footprint by dedicating the shared driveway as common area. Commissioner Sigg felt that snow storage was solvable and reiterated he would like to see how the adjacent property owners felt about Applicant's proposal. He noted there was no agreement that memorialized this yet, and ideally there would be one Association that covered the eight lots.

Commissioner Suesser commented that in Old Town residents are not allowed to shovel their driveway snow into the ROW. She felt that in this situation, the adjacent neighbors would have to remove their snow from their property themselves because they could not just push it into the ROW and expect the HOA to clear it. She did not feel that the adjacent owners' clearing of their driveways was part of the snow storage issue, she just wanted to make sure there was enough snow storage available on the HOA property and felt strongly that those areas should be designated as common space and that the shared driveway should be one big C-shaped lot.

In terms of snow storage, Chair Hall asked if any Commissioner had any proposed amendment to the Conditions of Approval. She noted the suggestion of incorporating the snow storage area as common space. She noted the Applicant's statement that they would include in the CC&Rs that snow would not be pushed onto neighboring properties, and they would pay for snow removal from the shared driveway and the street.

Commissioner Sigg concurred with Commissioner Suesser that if it would become common area, it would alleviate any future issues such as title transfers.

Chair Hall was trying to summarize a portion of the application so that they could move onto another topic. Commissioner Suesser commented that the City did not enforce CC&Rs and felt that a Condition of Approval should be added that requires a separate Lot that included the shared driveway and snow storage areas designated in the proposal as common space. She disagreed that CC&Rs were something the Planning Commission could lean on in this situation because they could change or written however they want. If it is not a Condition of Approval, then it cannot be enforced.

Chair Hall referenced Conditions of Approval 10 and 11 and opined they were getting to the same concept that states if there was no HOA or CC&Rs, the restrictions related to the snow storage and financial contribution would be applicable before the Plat could be recorded.

City Attorney Harrington advised that during the break, Staff took the opportunity to capture some of the Commission's comments and prepared draft language that partially addressed

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Commissioner Suesser's suggestion. Staff agreed that CC&Rs alone had an enforceability problem.

Staff proposed language that focused more on an affirmative requirement for a new or amended Encroachment Agreement with the City. He commented that if the Commission had consensus on a requirement on eliminating the road itself from the Lot area and designating that common area and did the same with the side yards, they might want to ask the Planners and Engineers because it would be unusual. He was not aware of that being done in any other case.

Chair Hall agreed with Commissioner Suesser that CC&Rs were challenging, at best, for the City to enforce and invited Staff to address this issue.

Commissioner Sigg asked if a Plat Note would suffice and supersede the CC&Rs on the issues of common area and snow storage. City Attorney Harrington stated that it would but noted that the issue with Plat Notes is they also get lost from owner to owner, so they might want a more affirmative management plan incorporated.

Chair Hall observed that Conditions of Approval 10 and 11 could be amended to add some teeth to alleviate the concerns about enforceability. She asked Staff to share the amended language they prepared during the break.

Planner Ananth shared proposed language for Conditions of Approval 11, 12 and 13. Commissioner Suesser asked what was meant by "snow storage exhibit." She also asked City Attorney Harrington to explain the Encroachment Agreement referenced in his comments and now referenced in proposed Condition of Approval 13. She wondered if this language was added because the three adjacent owners have an Encroachment Agreement with the City to North Norfolk Avenue, and this would be similar for the HOA.

City Attorney Harrington confirmed that Commissioner Suesser was correct as to the Encroachment Agreement and was also in response to the Applicant's offer to expand their responsibilities beyond existing Condition of Approval 10. Condition of Approval 13 would clarify exactly who was doing what. He noted that the Planning Commission was making a recommendation, not final action, so there were things the Commission could require prior to final action by City Council. He noted that the new Conditions of Approval did not include a Condition regarding removal of the Lot Area for the driveway, and they would need that additional language if they were to make that a Condition of Approval. Commissioner Suesser requested such language.

Chair Hall stated that Conditions of Approval 11, 12 and 13 would replace Condition of Approval 11. There was discussion regarding the proposed language regarding the shared driveway presented on the screen. Commissioner Suesser requested language that the snow storage areas shall be its own separate common area Lot.

Applicant representative Keyes stated that making it a separate Lot was the only component that Applicant would have an issue with. Commissioner Suesser commented that Staff recommended this to the Commission, the Commission had worked hard on this application and expressed her belief that the Commission had consensus that the common area needed to be its own separate Lot in order to get approval. She felt that Applicant must have prepared for that because the Staff Report recommended that to the Commission.

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Chair Hall suggested taking a poll on this issue to see if there was consensus. She noted the Applicant wanted the proposed Plat to stay as drafted with the function of snow storage and trash to be accomplished through the CC&Rs and agreements with the City. She noted Commissioner Suesser's request regarding the common area managed by the HOA.

Commissioner Shand noted his prior suggestion of incorporating snow storage areas into the CC&Rs, but if it was agreeable with Applicant and the City, he felt the right way to accomplish this was to make it common space. Chair Hall felt Applicant expressed they were not agreeable. Commissioner Shand understood the Applicant objected to making the snow storage area a separate Lot. Applicant representative Keyes confirmed they objected to making a separate Lot for snow storage and the shared driveway. He confirmed that Applicant was agreeable to making these areas common area or subject to the agreements in a way that did not make it a separate Lot.

Chair Hall noted this clarification and sought to gauge the Commissioners positions on this issue. She asked if they were agreeable with the Plat as presented by Applicant. Commissioner Shand reiterated that he was agreeable with the locations being designated common space.

Commissioner Sigg was agreeable with "common" and given the pedestrian egress through the area felt it was important to clarify if the "common space" applied to the four Lots, or whether it was "common" so that the public could walk through the area. He felt there would be a time when stairs would go to Empire Avenue, and he would like to ensure that the public could get through that space. City Attorney Harrington explained that existing Condition of Approval 9 addressed the issue by requiring an access easement across the private driveway. Commissioner Sigg stated he was agreeable with it being common area as long as the public ingress and egress to the stairs was satisfied.

Commissioner Suesser asked for clarification as to whether the suggestion was to call the snow storage areas common space owned by Lot D, or whether Commissioner Shand and Sigg's suggestion was to create a separate Lot.

Commissioner Sigg asked if it would be deed restricted. City Attorney Harrington stated there were a number of ways the Applicant could address it but felt this was what Chair Hall was trying to do in terms of whether the Commission wanted both or either the private drive or snow storage designated as a separate Lot. Commissioner Suesser noted that the Commissioners stated they were agreeable with it being called common space, and she was unsure what that meant in terms of a separate Lot. She felt it needed to be a separate Lot as opposed to common space owned by the owner of Lot D.

City Attorney Harrington felt the Applicant represented that they had mechanisms within the CC&Rs to frame common area responsibilities within existing Lots by agreement. He explained that Staff analyzed, but did not recommend, what would happen to the building size if the Commission excluded the private driveway. The Commission could focus on the pros and cons of that from more of a compatibility issue as opposed to this ownership/maintenance issue that could be addressed by either CC&Rs or an agreement with the City.

Commissioner Suesser stated that by designating the shared driveway and the snow storage areas as its own separate Lot, it would kill two birds with one stone because it would take care of the maintenance issues and set the Setbacks where they should be rather than as proposed.

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Commissioner Frontero asked City Attorney Harrington if he agreed with Commissioner Suesser's last comment regarding the Setbacks. City Attorney Harrington stated that was the information Staff did not give, that is, what the ramifications would be to the Setbacks if they excluded the snow storage areas. He stated that was not the prior proposal, and it was analyzed for excluding the private driveway and the resulting Maximum Building Pad.

Commissioner Suesser stated she was just talking about the snow storage on Lot D, not the snow storage between the homes.

Commissioner Johnson asked whether the current discussions would result in an amendment to Finding of Fact 9 to set forth the reduced square footages shown in the chart in the Staff Report. City Attorney Harrington stated they would and added that Lot D would decrease slightly more if they excluded the snow storage area. Commissioner Johnson noted if they proceeded consistent with these discussions, Finding of Fact 9 would be adjusted such that Lot A would by 2,186 square feet, Lot B would be 2,119 square feet, Lot C would be 2,152 square feet, and potentially less than 2,671 square feet for Lot D. Planner Ananth believed that to be correct.

Commissioner Johnson was agreeable to this because the reduction in square footage would help alleviate his snow storage concerns.

Commissioner Van Dine agreed with how it was framed by City Attorney Harrington as creating a separate common space Lot so that Setbacks and Building Pads were smaller. She noted the Applicant did not want to agree to such a Condition of Approval. Applicant representative Keyes clarified that Applicant did not want to come back with a different proposed Plat that would have an additional Lot as suggested by Commissioner Suesser. He acknowledged it would result in greater Setbacks because they would have a new Lot. He submitted that was not what the Code required and what they submitted was Code-compliant.

If the concern was snow storage, he expressed there were ways they could address that without creating an additional lot and reducing the buildable square footage. The Applicant was not willing to agree to unilaterally submit a different Plat that would greatly reduce the potential square footage. He stated the Applicant was willing to take on additional costs to mitigate concerns as well as to increase public access, however this approach would greatly reduce this for the Applicant.

The Applicant preferred to proceed with a different mechanism that would achieve the same result without changing the Setbacks.

Commissioner Frontero commented that the purpose of the Setbacks was to build homes that are in scale and away from the street, and in this case the shared driveway. He leaned towards more proper Setbacks measured from the edge of the shared driveway. He noted that if the shared driveway were a street, the Applicant would be required to comply with the Setbacks, and it would be entirely consistent for the homes to be set back from the edge of the shared driveway. He favored having the Setback as a separate Lot to get the desired result the he understood was the intention of Setbacks.

Applicant representative Keyes clarified that Staff analyzed only the shared driveway, and Commissioner Suesser spoke to the shared driveway and a portion of the snow storage, which was problematic. He explained that the snow storage at the bottom of Lot D did not actually come all the way over to the shared driveway. There was a parking space in between these locations.

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Commissioner Shand asked to see the snow storage plan. Planner Ananth presented the current snow storage areas. She recommended that consideration be given to amending Condition of Approval 3, which would require the Applicant provide a geotechnical report and storm drainage storage plan for the Site and add the word "including for snow storage" so that the Engineering Department could verify that Applicant had met the Code requirements and City standards.

Commissioner Suesser observed that the City Engineer just verified that to the Commission tonight. Planner Ananth stated they did not know if the driveway would be heated or not and suggested keeping some flexibility by not tying it to the snow storage plan but rather to Code.

Commissioner Suesser appreciated Planner Ananth's candor because the Applicant stated those snow storage areas were designated based on a non-heated shared driveway. She liked the addition to Condition of Approval 3.

Chair Hall commented that would address the unknown of whether the driveway would be heated. As long as the City Engineer approved it, it would be consistent with how they processed all applications. Planner Ananth agreed and stated it would be done as part of the Building Permit process.

Commissioner Suesser asked how the Commission could sign off on a plan if they do not know whether the snow storage was adequate. Planner Ananth stated it would meet Code, so it would be adequate. She added that the City Engineer would review it for adequacy. If the snow storage plan does not meet the Code, then a Building Permit will not be issued. Chair Hall felt it made sense to modify Condition of Approval 3.

Commissioner Suesser stated that Applicant could meet Code by hauling it offsite. Planner Ananth confirmed that the Conditions would require the Applicant to meet snow storage requirements onsite. If they have another heavy snow year, the Applicant might still have to haul some offsite, but there is a standard of 15% of the impervious surface must be accounted for, along with a drainage plan that Applicant must meet. Commissioner Suesser expressed her approval for this and wondered why that had not been included in prior Subdivisions such as King's Crown where the requirement was to haul it offsite. Based on this, she revised her request such that the shared driveway alone be the separate common space Lot as suggested by Staff in the Staff Report.

Chair Hall understood the Applicant was opposed to that, so the Commission would have to process the application as presented.

Commissioner Frontero asked if there was consensus on that issue.

Assistant Director Ward noted the discussions regarding Setbacks and asked for clarification regarding the reduced Maximum Building Footprint if the private driveway was removed from the individual Lots. Commissioner Suesser offered that the point was to set the Setbacks from the separate Lot established as the shared driveway.

Commissioner Shand understood that currently, the proposal was that the shared driveway would be common space. Applicant representative Keyes confirmed that the proposal would be that shared driveway would be treated as common space maintained through the HOA. He also

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confirmed that the common space would exist over the four Lots, and each Lot would have a portion of the common space.

Commissioner Frontero understood that currently, the Setback would be measured from the Lot edge as opposed to the shared driveway. Applicant representative Keyes confirmed and noted the majority of the homes met the Setbacks, and it was only Lot D that struggled to meet Setbacks because it is a corner lot. He noted Lot D would be rendered unbuildable if the Setback went from the edge of the shared driveway. He stated that was why the Applicant was opposed to creating a separate common area lot.

Planner Ananth presented the proposed Plat for the Commission to review. Chair Hall understood the Applicant proposed the driveway would be common space and Lots A, B and C would still meet the Setbacks. The issue was that Lot D as drawn would be unbuildable if a separate lot was created.

Chair Hall looked to move forward with this item in the near future if the Commission could not reach consensus, as she wanted to get to the last two Agenda Items for tonight's meeting.

Commissioner Sigg asked if they would still consider Lot D a corner lot if the Setbacks changed. Planner Ananth understood that the Commission was interested in reduced Lot Size primarily for the reduced Building Footprints. Chair Hall noted that was what Commissioner Suesser was looking for but was not sure there was consensus on that point. Planner Ananth stated that would really affect Lot D's build ability. She suggested as a compromise that the Setbacks for Lots A, B and C be measured from the shared driveway, but the Setbacks for Lot D would not so that it would remain buildable. Commissioners Suesser, Frontero and Sigg expressed agreement with that suggestion.

Chair Hall wondered if they could accomplish the same thing with the proposed Plat by putting those restrictions in the Draft Ordinance versus creating another parcel. She felt that if the goal was snow storage, Lot Size and Setbacks, that goal should be able to be accomplished through Conditions of Approval without complicating the proposed Plat. She noted the Applicant did not want a Lot E. She offered that if there was consensus for snow storage, Setbacks and square footage, they should try and accomplish that within the CC&Rs. Commissioner Suesser commented that the Applicant only opposed Lot E because it would affect the build ability of Lot D. She had not heard the Applicant stated that a separate lot would was the issue.

Applicant representative Keyes stated he conferred quickly with his team, and they were agreeable with Planner Ananth's proposal. Therefore, for Lot D there would be 10 feet on the west side.

Planner Ananth summarized that the private shared driveway would still be common area for the HOA, the Setbacks for Lots A, B and C shall be measured from the common driveway. Commissioner Suesser clarified that common driveway meant a separate Lot. Chair Hall understood that they would not create a Lot E pursuant to Planner Ananth's proposal and Conditions of Approval. She noted they were trying to accomplish Commissioner Suesser's goals without actually platting a Lot E. Planner Ananth continued by stating that the Setbacks for Lot D shall be measured from the property line. Assistant Director Ward added "or as in the Setback determination."

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Planner Ananth requested a break to finalize the changes and return after completion of the final two Agenda Items. Chair Hall agreed and confirmed that the Commission was agreeable to reorder the Agenda to continue this item at the end of the meeting.

Following completion of the last two Agenda Items, The Commission resumed consideration of Agenda Item 3.D.

Planner Ananth presented the proposed changes to the Findings of Fact and Conditions of Approval. She noted that Finding of Fact 9 would be struck, and they would address Lot Sizes in the Conditions of Approval. She presented the new language clarifying that the City Engineer would snow storage. They added new Condition of Approval 9 that the "private shared driveway shall be common area maintained by the HOA."

Condition of Approval 10 required some discussion as she felt the Applicant did not fully understand her proposal. She believed she proposed that the Setbacks and Maximum Building Footprint for Lots A, B, and C should exclude the common driveway area. She reported that the Applicant did not want to reduce the footprint; rather, they wanted to use the area in the calculation of the Building Footprint but were willing to meet the Setback requirements based off the driveway. She then noted that the Setbacks for Lot D would be measured from the property line consistent with the Planning Director's Setback Determination. Additionally, she referenced the added language that Applicant shall submit a trash receptacle management plan in a form approved by the City Engineer.

Planner Ananth also noted that prior to plat recordation, the Applicant shall enter into a new Encroachment Agreement with the Engineering Department in a form approved by the City Attorney's Office outlining Applicant's responsibilities for maintenance and snow removal of Norfolk Avenue. It was suggested that language be added clarifying the section of Norfolk Avenue. She noted they also struck Condition of Approval 11 given Applicant's approval to undertake all of the snow plowing. Planner Ananth stated that would be included in the new encroachment agreement.

Commissioner Suesser asked if the Conditions of Approval specified that Lot D would not be a duplex. Planner Ananth stated that none of the lots were large enough to have a duplex. Commissioner Suesser agreed with these changes as drafted, and felt the Commission was looking for a reduced Maximum Building Footprint on Lots A, B and C. Assistant Director Ward observed this would not reduce the Maximum Building Footprint, to which Planner Ananth agreed. She explained the Applicant did not want to reduce the Maximum Building Footprint.

Applicant representative Keyes stated that as drafted, it would reduce the Maximum Building Footprint. He clarified that the footprint on Lot C would still be reduced because it was within the 10-foot Setback. He noted there would be an impact on the overall size based on these Setbacks, but the Applicant was not willing to reduce the footprint on all three buildings. Applicant Steinberg stated they were fine if part of the concern was making sure that the home was 10 feet from the road. They were willing to make sure that the Setbacks for Lots A, B, and C were 10 feet from the road.

Chair Hall noted that this impacted approximately 100 square feet for Lot A and 100 square feet for Lot B.

Approved 11.08.2023

Commissioner Sigg asked if the Encroachment Agreement would be limited to maintenance and snow removal. Planner Ananth stated that it likely would be limited to those two issues but would likely also specify the seal coat of the driveway. She noted at this point the Commission was not requiring the Applicant to make other structural improvements to the road.

Commissioner Johnson commented that he was not as concerned about the Setbacks off the private driveway as it was a miniscule reduction in Lot Size and buildable space. He noted this was a lot of new information. He stated he was more concerned with having a slight reduction in the event that a snow storage issue arose. He stated he needed time to review the language. Planner Ananth referred the Commission to the table on page 5 of the Staff Report that showed the Lot Area and the footprints with and without the driveway. Commissioner Johnson understood and would re-review the information.

Commissioner Frontero was satisfied with the current rewording by Applicant and stated it mitigated his concerns that the homes would be too close to the driveway.

Commissioner Shand was satisfied with the language as proposed by Planner Ananth. Commissioner Sigg was fine with the proposal as it related to the property, but was still concerned about the health, safety and welfare and the condition of the road over and above just resurfacing the road. He felt there were issues with parking that could create lack of circulation and was not convinced about the City's position on those issues. He reiterated that these issues were not addressed in relation to establishing LMC Section 15-15-1.

Commissioner Suesser felt that the size of the home should be based on the measurement from the shared driveway. This would reduce the Maximum Building Footprint on Lots A, B and C, and she would hold firm on this point. She noted these were larger lots, and she felt that configuring them to include the shared driveway was clearly meant to increase the size of the homes and she did not feel that was appropriate next to three standard lots with standard Old Town homes. She opined that it would be out of character and out of scale with the adjoining homes.

Commissioner Suesser believed they reached a reasonable compromise in addressing this issue, and expressed disappointment that the rest of the Commission would cave on this point. She felt they had given this Applicant everything they asked for, and yet the Commission had a lot of continuing issues with the proposed plans.

Chair Hall found this application complied with the LMC and the Setbacks from the driveway were an enhancement from the original application. She also felt there was a significant, voluntary concession to pay for maintenance of the entire street, which shocked her. She noted that was an overall significant win for the adjacent homeowners and the Applicant went above and beyond the minimum requirements of the LMC in this regard. She reiterated her belief that the application complied with the Code, and the Applicant made a generous offer to maintain better relationships with the neighbors. Commissioner Suesser disagreed.

Commissioner Van Dine agreed with Chair Hall's comments and expressed that the proposed amended language was acceptable.

Commissioner Johnson stated this was tough, but the application met the Code and the Applicant taking responsibility for the road was a huge win given the City could not really fix that road without triggering many other developments that were not relevant to this application.

Approved 11.08.2023

MOTION: Commissioner Frontero moved to forward a positive recommendation for 1325 Empire Avenue and Parcel SA-200 – Plat Amendment, to City Council for its consideration based on the Findings of Fact, Conclusions of Law and Conditions of Approval, as amended and outlined in the Draft Ordinance as follows:

Findings of Fact

1. On October 16, 1980, the City Council passed a resolution closing a portion of the Norfolk Avenue right-of-way.

2. On April 22, 1982, that closed portion of Norfolk Avenue was sold by the City.

3. In 2014, a Plat Amendment was submitted for 3 lots, located at 1314 & 1350 Empire Avenue known as the Knudson Plat.

4. On January 29, 2014, the Planning Commission forwarded a positive recommendation to the City Council, and on February 13, 2014, City Council approved The Knudson Plat.

5. The Knudson Plat was recorded with Summit County on February 27, 2014.

6. The land was not developed.

7. In May of 2022, the Applicant submitted this Plat Amendment, proposing to subdivide a vacant Lot and Parcel into four Lots to eventually be developed with four Single Family Dwellings.

8. The proposed four (4) Lots comply with the Recreation Commercial (RC) Zoning District requirements outlined in LMC Chapter 15-2.16.

9. The Single-Family Dwellings will require two off-street parking spaces per Lot, as required by § 15-3-6.

10. There is Good Cause for this Plat Amendment because it will allow for development that promotes density that is consistent with the Resort Neighborhood and purposes of the Recreation Commercial (RC) Zoning District.

11. The minimum width of 19-feet shared driveway is in keeping with the historical context of Old Town.

12. The findings in the Analysis section of the Staff Report dated September 27, 2023, are incorporated herein.

Conclusions of Law

1. Neither the public nor any person will be materially injured by the proposed plat amendment.

Approved 11.08.2023

2. 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.

3. The proposal complies with the Recreation Commercial (RC) Zoning District requirements outlined in LMC Chapter 15-2.16.

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. Prior to submitting for building permits, the Applicants must provide a geotechnical report, storm drainage storage plan for the site, including for snow storage. Construction of basements may be limited on the recommendation of a Licensed Geotechnical engineer and the City Engineering Department. All drainage must be retained on site, and the storm drainage storage plan shall be reviewed and approved by the City Engineering and Building Departments.

4. A Plat Note shall be added that reads: Before any combustible material is delivered to the site, emergency access stairs required by the Park City Fire District must be completed. If an agreement is made for the construction of public stairs on 1330 Empire Avenue that accesses the North Norfolk Subdivision, and satisfies the Building, Housing, Engineering, and Planning Departments as well as the Park City Fire District, then that may satisfy this requirement and shall not require a Plat Amendment, as long as those stairs are completed. The Fire Access Easement shown on the proposed Plat must be recorded with the County before the recordation of the Plat. The Applicant and their successors and assigns shall be responsible for maintaining the private stairs and keeping them clear of snow so that they are available for emergency access. Public Stairs shall be maintained and cleared of snow by the City.

5. Prior to the recordation of this Plat, a 30-Foot Non-Exclusive Utility Easement, as shown on the proposed Plat, must be recorded with Summit County.

6. A Plat Note shall indicate that no Buildings can be built within the 30-foot Non-Exclusive Utility Easement. Landscaping and non-heated driveways may be constructed but owners should be aware that these items can be removed at any time and the Lot owners will be responsible for any replacements within the easement area.

7. Parking is not allowed on the shared driveway, and the owners shall place signs that indicate it is private.

Approved 11.08.2023

8. A Plat Note shall indicate that Lot D shall have two Front Setbacks, with the Western Setback being 12 feet and the Southern Setback being 13 feet, the North Setback being a rear setback of 12 feet, and the East Setback a side setback of 3 feet. Primary access will be from the South Side.

9. The private Shared Driveway shall be a Common Area maintained by the HOA.

10. The Setbacks for Lots A, B and C shall exclude the Common Driveway area.

11. The Setbacks for Lot D shall be measured from the property line and consistent with the Planning Director's code-based Setback Determination.

12. A Plat Note shall indicate that in the even of construction of a public stair with access to the property, a portion of the 19-foot-wide shared driveway shall be used to allow public pedestrian access to the public stairs. That access will be designated by signage, and it be constructed with a material visually distinct from the rest of the shared driveway.

13. Prior to recordation of this plat, the Applicant shall record documents obliging the owners of each Lot to be financially responsible for maintaining the shared driveway serving the Lots including snow removal and storage. This condition may be satisfied by either: (i) Applicant's formation of a homeowners' association whose recorded governing documents shall establish responsibility for such maintenance, or (ii) if Applicant does not form a homeowners' association, another recorded form of covenants to be recorded prior to or contemporaneous with the recordation of the plat which binds each Lot owner to contribute twenty-five percent (25%) of the cost of such maintenance.

14. The Applicant shall submit a trash receptacle management plan in a form approved by the City Engineer.

15. Prior to plat recordation, the Applicant shall enter into a new encroachment agreement outlining the Applicant's responsibilities for maintenance and snow removal of Norfolk Avenue north of 13th Street with the Engineering Department in a form approved by the City Attorney's Office.

16. Prior to the issuance of the Certificate of occupancy for the 4th Lot or last house to be constructed, the Applicant shall seal coat Norfolk Avenue between 13th Street and the subject property to repair any damage to the roadway due to construction activity.

17. The Applicant's final Plat shall reflect maximum Building Pads.

18. A Plat Note shall indicate that this Plat is subject to Ordinance 2023-XX.

Commissioner Van Dine seconded the motion.

Approved 11.08.2023

VOTE: Commissioner Frontero-Aye; Commissioner Johnson-Aye; Commissioner Van Dine-Aye, Commissioner Sigg-Nay; Commissioner Shand-Aye. Commissioner Suesser dropped off Zoom and did not participate in the vote. The motion passed 4-to-1.

City Attorney Harrington reported that they would incorporate Commissioner Sigg's safety and parking considerations into the encroachment agreement. Commissioner Sigg stated that could change his position on that as it was a major concern.

E. Land Management Code Amendments – The Planning Commission Will Review Amendments to Create a Maximum Lot Size for the Historic Residential Zoning Districts, Including Historic Residential Low - Density, Historic Residential - 1, Historic Residential – 2, and Historic Residential Medium. P-23-05655.

Planner Cawley reported that the above item addresses Lot Combinations. As previously discussed, the Planning Commission found that Lot Combinations were supported by General Plan Goal 15, which is to preserve the integrity, mass, scale, compatibility and historic fabric of the Historic Districts. Strategy 15.12 allows an examination of Lot Sizes in Old Town to determine if the Maximum Lot Size would provide compatible mass and scale for new structures and additions. On May 10, 2023, a Pending Ordinance was issued that established a Maximum Lot Size for Historic Residential – Low ("HRL"), Historic Residential – 1 ("HR-1"), Historic Residential – 2 ("HR-2") and Historic Residential – Medium ("HRM") Zoning Districts.

Planner Cawley recalled that on May 24, 2023, the Planning Commission held a public hearing and provided input that was included in these proposed amendments. On August 23, 2023, another public hearing was held, and the Planning Commission expressed consensus on the proposed amendments, specifically, to establish a Maximum Lot Size for residential uses in Historic Districts. The Planning Commission also recommended that the City Council consider incentives for Accessory Apartments. He reported there was no consensus on adopting a bonus as part of the Lot Combinations, but Staff would address that with the City Council. He presented a map of the three Historic Residential - Low Zoning District locations. The current Code states that the Minimum Lot Size was two Old Town lots with 5-foot Side Setbacks and a 1,519 square foot Building Footprint. The proposal called for a three Old Town lot maximum, with 5-foot Side Setbacks totaling 18 feet, and a 2,050 square foot Building Footprint. He clarified that this was for Single-Family Dwellings.

Planner Cawley explained that the area highlighted in red illustrated the HR-1 and HR-2 Zoning Districts. The proposed amendments included a maximum of two Old Town lots for a Single-Family Dwelling, with 5-foot Side Setbacks and a 1,519 square foot Building Footprint. For duplex dwellings, Planner Cawley explained that the proposed maximum was four Old Town lots, with 10-foot Side Setbacks totaling 24 feet, and a 2,460 square foot Building Footprint. He next presented a map of the Historic Residential – Medium Zoning District, which is located along Park Avenue. He noted the map showed a mix of residential uses within this Zoning District, with multi-unit dwellings making up a majority of the uses.

Planner Cawley advised that for Single Family Dwellings, the proposed maximum was two Old Town lots, with 5-foot Side Setbacks and a 1,519 square foot Building Footprint. Duplex dwellings would carry a maximum of four Old Town lots, 5-foot Setbacks and a 2,460 square foot Building Footprint. He added that tri-plexes or multi-unit dwellings would be based on CUP discretion, with a six or eight lot maximum.

Approved 11.08.2023

Planner Cawley reported that during the August 28, 2023, Planning Commission meeting, the Planning Commission requested an evaluation of whether Lot Combination regulations should expand to other zoning districts, which would include the transitional zoning districts found in Recreation Commercial, Residential – 1 and Residential – Medium. He advised that on August 28th, Staff issued a Pending Ordinance that established a Maximum Lot Size in these Districts, and a public hearing was scheduled for November 8, 2023.

Planner Cawley reminded that the amendments would remove "encourage Single-Family Development on combinations of 25' x 75' Historic Lots" from the Purpose Section of the HR-1 Zoning District. This would allow exceptions for lots platted prior to October 1. He presented the language that would remain in the Purpose Section of the HR-1 Zoning District, and noted this was already in the Code.

Planner Cawley advised that Staff recommended the Planning Commission conduct a public hearing and consider forwarding a positive recommendation for City Council's consideration on October 26, 2023. Staff also recommended adding the following for the Historic Residential – Low Zoning District:

> "Single-Family Dwelling Lots greater than 5,625 square feet that were approved in a Subdivision or Plat Amendment prior to October 1, 2023, are exempt from the Maximum Lot Area."

He noted that language would be added at Line 11 of the Draft Ordinance.

Additionally, in Historic Residential – 1 and 2, and Historic Residential – Medium, Staff included at the specified lines in the Draft Ordinance:

> "Single-Family Dwelling Lots greater than 3,750 square feet that were approved in a Subdivision or Plat Amendment prior to October 1, 2023, are exempt from the Maximum Lot Area."

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

Commissioner Frontero noted the exemptions for applications prior to October 1, 2023, and asked why that was included and how many would be exempt. Assistant Director Ward explained that the exemption was for lots that were already platted, and these amendments would apply to properties moving forward. This would make it easier for future Staff and applicants to have the date certain in Code so no one would have to look at previous LMCs to see when the change occurred. Everything platted prior to October 1, 2023, was already a Lot and these amendments would only apply to all parcels and metes-and-bounds properties that had not yet been platted.

Commissioner Van Dine asked how this new Code would address remnant lots and properties that were already non-conforming to the Plat Amendments going forward. She referenced Jonathan DeGray's letter and wondered what the route would be for these remnant lots. Assistant Director Ward stated that under the current process, those lots would go through a variance to the Board of Adjustment to account for some of the unusual lot configurations. City Attorney Harrington stated these could come before the Planning Commission assuming they did not have rights under the non-conforming statutes and ordinances because these owners would likely still need a Plat Amendment. The terms of whether these owners could exceed the maximums

Approved 11.08.2023

established by this Ordinance would have to be made in conjunction with a Board of Adjustment action under either a variance or under the non-conforming section of the Code. He stated they tried to come up with alternatives in which they could have a completely separate review track, but they felt that would create a potential loophole for anyone who argued they had an unusual configuration. He stated it was more difficult to carve out approval terms for those situations. If language over and above the existing variance and non-conforming sections was needed, they could address that in a subsequent ordinance.

Commissioner Suesser asked about Accessory Apartments. Chair Hall noted she had advocated for this previously, but the Commission did not feel it would be impactful enough to be worth Staff's time and Commission discussion in terms of adding language incentivizing Affordable Accessory Dwelling Units ("ADUs"). Commissioner Suesser was unclear as to where this issue stood in terms of recommending something to the City Council. Assistant Director Ward clarified that from the last public hearing, she understood the Planning Commission was supportive of helping people construct Accessory Apartments not just in Old Town and requested the City Council consider a citywide policy. Through Lot Combinations, the Commission was supportive of Accessory Apartments citywide, not just in Old Town. She noted there was no consensus to allow for a density bonus if a lot exceeded the Maximum Lot Size for an Accessory Apartment. She stated that Staff would present that expression of support to the City Council on October 26 but would not include any incentives for Accessory Apartments in the recommended redlines to the Ordinance.

Assistant Director Ward stated further that when Staff presents this Ordinance to City Council, they would advise that the Planning Commission recommended the City Council look at incentives for Accessory Apartments citywide and not necessarily tied to Lot Combinations.

Commissioner Suesser asked for further clarification regarding the amendments regarding Historic Residential – Low Lot Combinations. She recalled that they only proposed two Old Town Lots, not three. Assistant Director Ward explained that this zoning district was located along Samson Ridge, which has substandard streets with Very Steep Slopes. Therefore, many of the lots were above the Minimum Lot Size and the Code already required a larger lot to address the challenges specific to this zone. The proposal in the Pending Ordinance and as discussed included a three-lot maximum.

In response to an inquiry, Assistant Director Ward confirmed that they would keep the existing Minimum Lot Size and just put a cap on Maximum Lot Size. Commissioner Suesser did not recall discussing the Historic Residential – Low Zoning District and wanted to understand the location of this zone. Assistant Director Ward pointed out that the red areas shown on the graphic represented the Lilac Hill Subdivision, which consists of five lots in the Historic Residential – Low zone. She noted those lots were already platted. She also pointed out the McHenry neighborhood and the area with the extreme Steep Slopes and substandard roads. She explained that the underlying zone already required the Lots to be larger than elsewhere in Old Town.

MOTION: Commissioner Frontero moved to forward a POSITIVE recommendation for City Council's consideration on October 26, 2023, for Land Management Code Amendments establishing a Maximum Lot Size for Residential Development in the Historic Districts set forth in the Draft Ordinance attached as Exhibit A to the Staff Report.

Commissioner Sigg seconded the motion.

Approved 11.08.2023

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

F. Land Management Code Amendments - The Planning Commission will Review Amendments to Sections 15-1-8 Review Procedure Under the Code, Sections 15-2.1-6, 15-2.2-6, and 15-2.3-6 Development on Steep Slopes, Chapter 15-7 Subdivisions, and Section 15-12-15 Review by Planning Commission to Establish Planning Commission Review for All Steep Slope Conditional Use Permits, Establish Planning Commission Final Action for Plats, and Section 15-1-12 Notice and Section 15-1-21 Notice Matrix to Align With Changes to State Code. PL-23-05649.

Assistant Director Ward briefly summarized the discussions from the June Work Session that the State Legislature enacted Senate Bill ("S.B.") 174 that would take effect February 2024 and was specific to Subdivision Plats. She advised that the Planning Commission and City Council would no longer be able to take final action on Subdivision Plats, which would be limited to one public hearing. An administrative land use authority would take final action. Staff would return with further amendments specific to Subdivisions, but the goal of the amendments presented this evening was to move plats from City Council review to the Planning Commission.

Planner Niedermeyer reported that the proposal was to amend the LMC to shift final action authority for Condominium Plats, Plat Amendments and Subdivisions from City Council to the Planning Commission, and to shift Administrative Review of Steep Slope CUPs from Staff to the Planning Commission.

Staff recommended updating public notice requirements to align with S.B. 43 enacted by the Utah Legislature, which eliminated the requirement for publication in a newspaper of general circulation for certain land use applications. For Condominium Plats, Plat Amendments and Subdivisions, the LMC currently required a Plat Amendment for the combining of existing subdivided lots into one or more lots and/or the amendment of plat notes or other platted elements such as easements, Limits of Disturbance and Building Pads. The LMC currently requires Planning Commission review and recommendation to City Council for final action on Plat Amendments, and Plat Amendments require a finding of good cause.

Planner Niedermeyer reported that the Utah Code currently required the Planning Commission review and recommend Subdivision Ordinances for City Council adoption and the Utah Code did not require the Planning Commission or City Council to be the land use authority for Plat Amendments. He noted there was an opportunity for Planning Commission final action on Plat Amendments, with some potentially shifted to a Staff-level review. Staff proposed to shift final action for plats from City Council to the Planning Commission.

In terms of Steep Slopes CUP review, Planner Niedermeyer reported that on January 19, 2019, the City Council adopted an ordinance that approved an Administrative Steep Slopes CUP process for lots less than 3,750 square feet, and Planning Commission review for lots greater than 3,750 square feet. In 2021, the Utah Legislature enacted House Bill ("H.B.") 1003 that established what constitutes a complete Building Permit application for Single-Family Dwellings, Duplexes, and Townhomes. It required cities to complete the permit review no later than 14 business days after submission of a complete permit. In addition, cities may no longer require resubmittal of plans for Single-Family Dwellings, Duplexes or Townhomes to address modifications for compliance. He explained that the City may address violations found in the

Approved 11-08-2023

plans that the city may enforce during construction, and the city may only require resubmittal for Single-Family, Duplex or Townhome plans to address deficiencies identified by a third-party review, a Geotechnical or Geological Report.

Staff recommended the Planning Commission take final action for all Steep Slopes CUPs to ensure necessary time to review and address any potential deficiencies of a geotechnical or geological report at the time of Steep Slopes CUP review rather than to condition approvals to meet required standards at the time of Building Permit submittal.

In terms of Public Notice, Planner Neidermeyer reported that the Utah Legislature adopted S.B. 43, and the proposed amendments will align with the changes to State Code. Public notice is no longer required to be published in a newspaper of general circulation, and public notice for LMC amendments, General Plan updates, and vacation of ROW were updated to align with the 10-day public notice requirements. Staff recommended the Planning Commission hold a public hearing and consider forwarding a positive recommendation for City Council's consideration on October 26, 2023.

Assistant Director Ward added that the current Code was written such that if a plat was approved and the applicant was unable to record it within a years' time, they can file an extension that is reviewed by the City Council. With the proposed changes, she noted that Lines 585 to 587 addressed the extension of approvals, and she asked if the Commission would like those extensions heard by the Planning Commission or whether they could be heard by Planning Staff.

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

Commissioner Shand referenced resubmittal of plans and third-party review by a professional and asked who would choose the third-party review. He wondered if that came from the applicant or whether Staff recommended third party review. After clarifying his question, he understood the proposed amendment.

Commissioner Frontero asked for clarification of Assistant Director Ward's last point. She explained that once a plat is approved, the process to actually record it might take some time. She noted that some of the Conditions of Approval might require the applicant to enter into an encroachment agreement with the City Engineer prior to recording the plat. An applicant has one year to record a plat after plat approval. If an applicant does not record the plat within that one-year time frame, they are allowed to apply to the City Council for an extension of an additional year. With these amendments, the extension request could either come to the Planning Commission or could be a Staff level review. She noted there were standards in the Code that if there were no changes in what was approved and the regulations were the same as when the plat was approved, an applicant is allowed an additional year to work through the requirement before recording the plat.

Commissioner Frontero agreed with Staff review as long as the application and the Code have not changed. Assistant Director Ward stated Planning Staff or Planning Director or Director-designee could conduct the review.

Chair Hall was comfortable having the Planning Director or Interim Director sign off on an extension request. There was a consensus of the Commission.

Approved 11.08.2023

In response to an inquiry from Commissioner Suesser regarding resubmittal of plans, Assistant Director Ward identified the State regulations. She explained there was no proposed language and that the reason Staff recommended that all Steep Slopes CUPs come before the Planning Commission was because the State changed the way municipalities must review Single-Family, Duplex and Townhome Building Permits. They must be approved within 14 days, even if it must be conditional. To get the information in advance, Staff shifted all Steep Slopes CUPs to the Planning Commission, so they get all the information prior to submittal of a Building Permit. The only change in this amendment was that all Steep Slope CUPs come before the Planning Commission. Chair Hall noted that lines 609 and 692 should read "Chairman" instead of "Chair."

MOTION: Commissioner Frontero moved to forward a POSITIVE recommendation for City Council's consideration on October 26, 2023 for Land Management Code Amendments to align with changes in State Code regarding Public Notice and to Establish the Planning Commission as the Final Action Authority on Condominium Plats, Plat Amendments and Subdivisions, as set forth in the Draft Ordinance attached as Exhibit A to the Staff Report.

Commissioner Suesser seconded the motion.

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

5. ADJOURNMENT

Chair Hall noted that a majority of the Commissioners would meet after the meeting. A member of Staff would join, and they would not discuss any City business.

MOTION: Commissioner Shand moved to adjourn.

The meeting was adjourned at approximately 9:35 p.m.

Approved 11.08.2023

ESSENTIAL MUNICIPAL SERVICE

TEMPORARY HOUSING TRAILERS

Approved 11.08.2023

Planning Commission
September 27, 2023
PL-23-05733

PARK CITY
1884

MINE BENCH

March 23, 2022: CUP approval – PCFD temporary personnel living quarters and fire truck storage.

January 1, 2023: CUP expiration – no extension requested.

July 27, 2023: City Council authorizes Housing Team to acquire Temporary Housing Trailers.

Approved 11.08.2023

MINE BENCH

Proposal: Continue the use of two Temporary Housing Trailers through October 1, 2025, to provide housing for City employees associated with Essential Municipal Services provided at the Mine Bench while the City searches for a permanent location for the Housing Trailers.

Approved 11.08.2023

PARK CITY
1884

MINE BENCH

Recreation and Open Space Zoning District

LMC Chapter 15-2.7

- > 30 acres
- 25-foot front, side, & rear setbacks
- Installation on the portion owned by Jordanelle Special Service District

Approved 11.08.2023

PARK CITY 1884

MINE BENCH

ROS Conditional Use: Essential Municipal Public Utility Uses, Facilities, Services, and Structures greater than 600 square feet.

- 800 square feet
- Existing connections to sanitary sewer and water lines
- Public Works will limit occupancy to one person or couple
- No impact to adjacent Open Space
- General Plan goal to increase affordable housing opportunities for workforce

Approved 11.08.2023

PARK CITY 1884

MINE BENCH

Recommended Conditions:

- Compliance with Municipal Code Chapter 6-3 *Noise*

- Trash and recycling disposed of properly on site and removed weekly
- PCMC + JSSD enter into a storage agreement

- Approval expires October 1, 2025 – relocation or seek further commission approval

- Use of Housing Trailers limited to City Public Works employees, or those employees associated with the Essential Municipal Services provided in association with the Mine Bench.

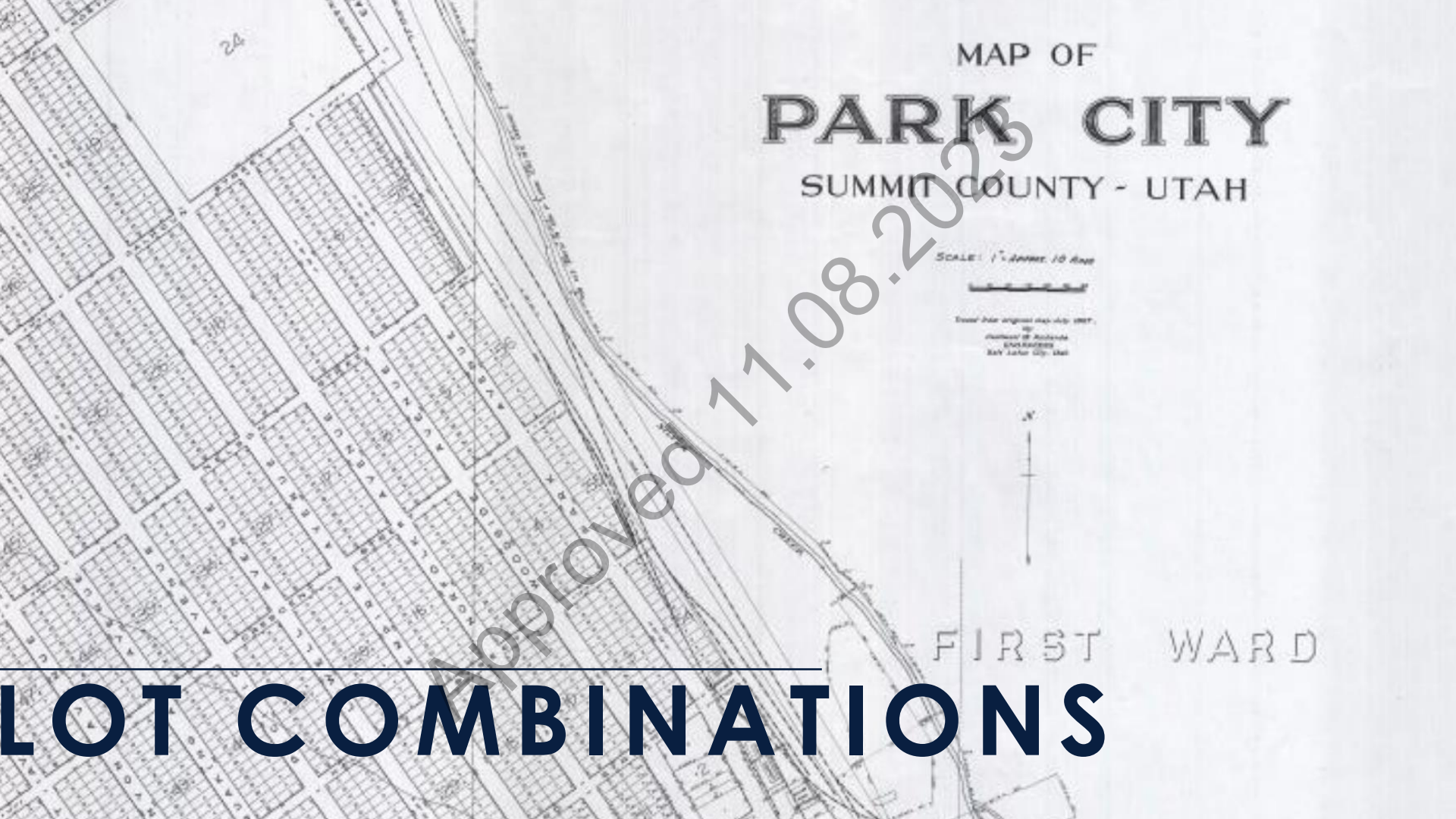
Approved 11.08.2023

PARK CITY 1884

MINE BENCH

Review the request to extend the approval for use of two 400-square-foot Temporary Housing Trailers at the Mine Bench Site, transferring them from the Park City Fire District to City employees associated with Essential Municipal Services located at the Mine Bench site, hold a public hearing, and consider extending the approval through October 1, 2025.

Approved 11.08.2023



LOT COMBINATIONS

LOT COMBINATIONS

General Plan Goal 15

Preserve the integrity, mass, scale, compatibility and historic fabric of the Historic Districts

Strategy 15.12

Examine lot sizes in Old Town to determine if a maximum lot size would provide compatible mass and scale for new structures and additions

Approved 11.08.2023

LOT COMBINATIONS

Pending Ordinance Issued May 10, 2023

Establishes a maximum lot size:

Historic Residential Low – Density

Historic Residential – 1 and Historic Residential – 2

Historic Residential Medium

Approved 11.08.2023

LOT COMBINATIONS

Approved 11.08.2023

May 24, 2023 Planning Commission Public Hearing

The Planning Commission provided input that is incorporated into these proposed amendments.

LOT COMBINATIONS

Approved 11.08.2023

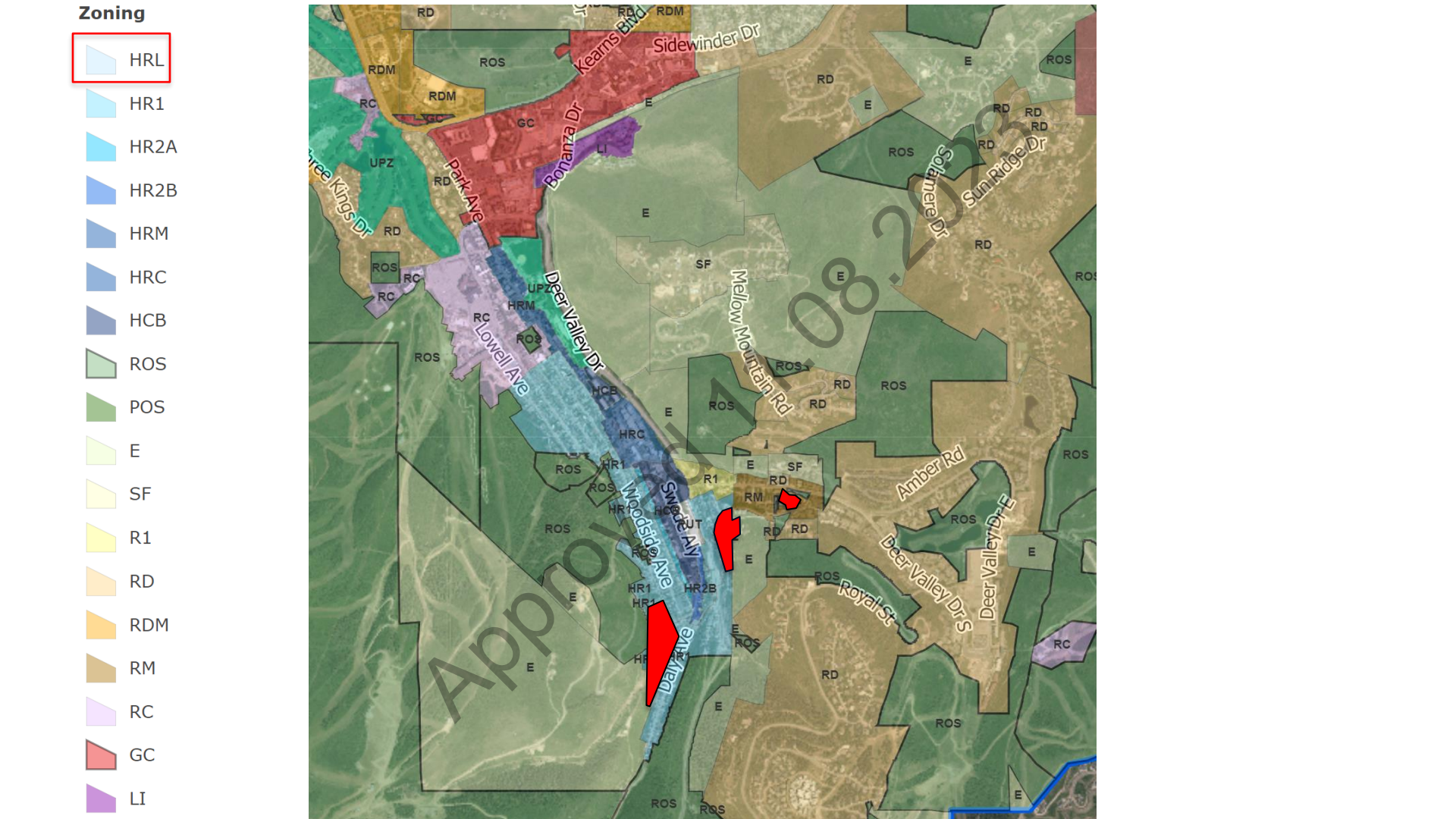
August 23, 2023 Planning Commission Public Hearing

The Planning Commission expressed consensus on the proposed amendments to:

- Establish a maximum lot size for residential uses in the Historic Districts

- Recommend the City Council consider incentives for Accessory Apartments, but no consensus on adopting a bonus as part of the lot combinations

PARK CITY
1884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GC
LI
Kearns Blvd
Sidewinder Dr
Bonanza Dr
Park Ave
Three Kings Dr
Deer Valley Dr
Lowell Ave
Mellow Mountain Rd
Sun Ridge Dr
Amber Rd
Deer Valley Dr E
Deer Valley Dr S
Royal St
Woodside Ave
Daly Ave
Approved 01.08.2025

LOT COMBINATIONS

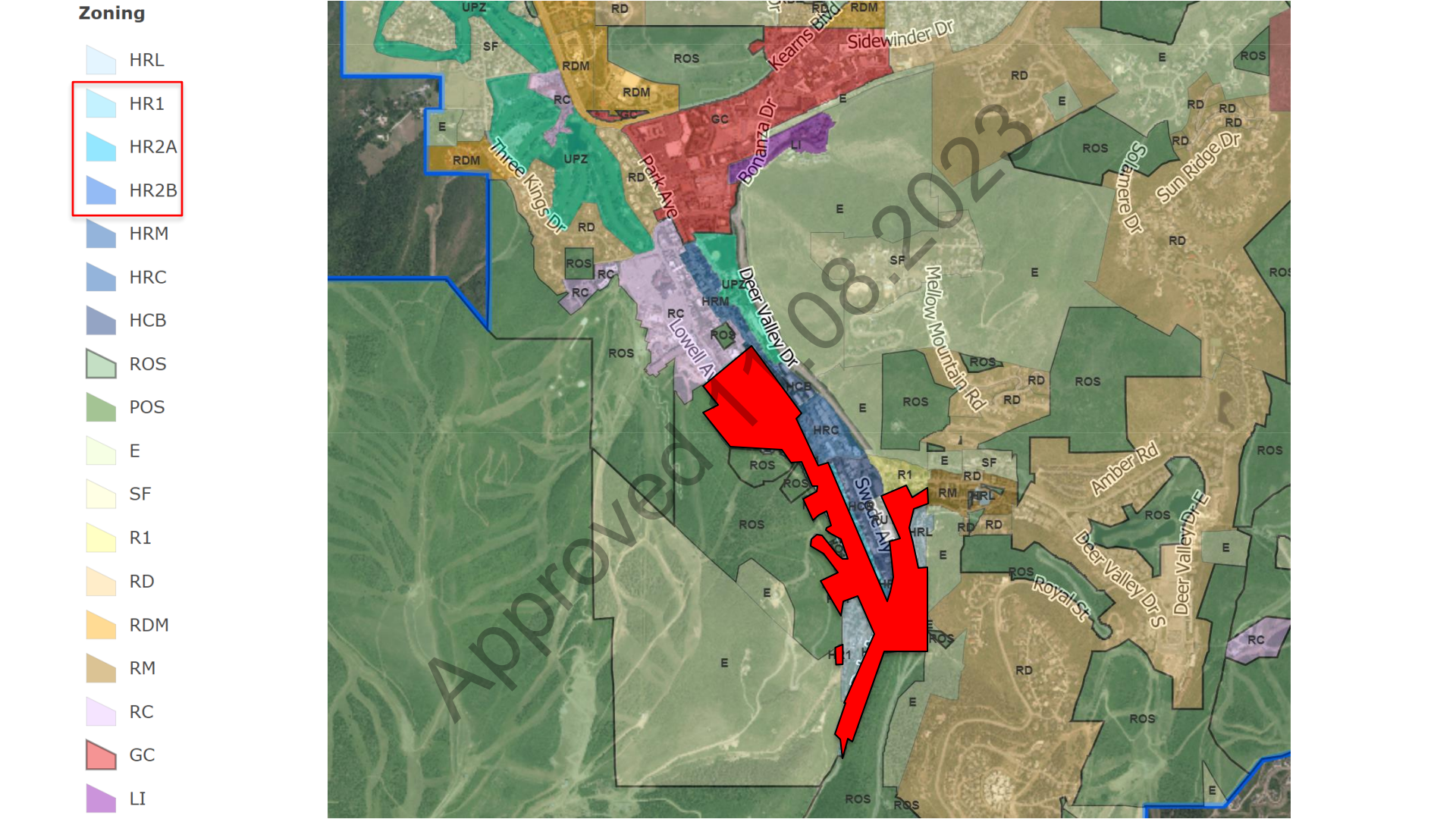
Approved 11.08.2023

Historic Residential Low – Density

Single-Family Dwellings

Existing: Minimum lot size – two Old Town lots with five-foot side setbacks
1,519-square-foot building footprint

Proposed: Three Old Town Lot max with five-foot side setbacks
totaling 18 feet
2,050-square-foot building footprint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Three Kings Dr
Deer Valley Dr
Lowell Ave
Mellow Mountain Rd
Solanere Dr
Sun Ridge Dr
Amber Rd
Deer Valley Dr E
Deer Valley Dr S
Royal St
Swede Ave
Approved 11.08.2023

LOT COMBINATIONS

Historic Residential – 1 and – 2

Single-Family Dwellings

Proposed two Old Town Lot max with five-foot side setbacks
1,519-square-foot building footprint

Duplex Dwellings

Proposed four Old Town Lot max
With ten-foot side setbacks for a total of 24 feet
2,460-square-foot building footprint

Approved 11.08.2023

PARK CITY
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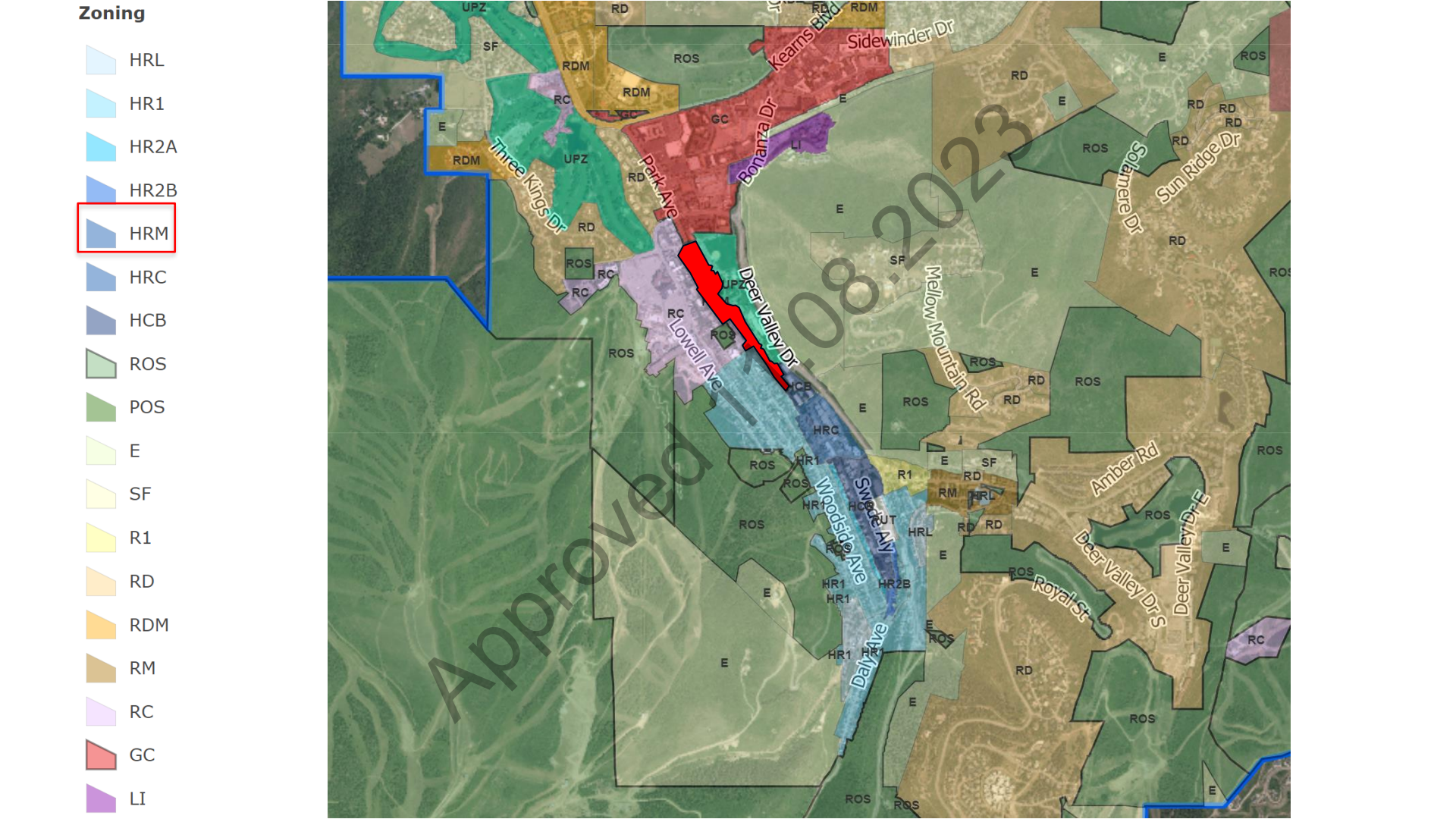
Zoning
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Approved 11.08.2023
Sidewinder Dr
Keams Blvd
Bonanza Dr
Park Ave
Three Kings Dr
Deer Valley Dr
Lowell Ave
Mellow Mountain Rd
Solanere Dr
Sun Ridge Dr
Amber Rd
Deer Valley Dr E
Deer Valley Dr S
Royal St
Woodside Ave
Swede Alley
Daly Ave

Park Ave
25
Approved 11.08.2023

LOT COMBINATIONS

Historic Residential Medium

Single-Family Dwellings

Proposed two Old Town Lot max with five-foot side setbacks
1,519-square-foot building footprint

Duplex Dwellings

Proposed four Old Town Lot max with five-foot side setbacks
2,460-square-foot building footprint

Triplex Dwellings and Multi-Unit Dwellings
Proposed six- and eight-lot max, with CUP discretion

Approved 11.08.2023

PARK CITY
1884

LOT COMBINATIONS

Evaluate whether the lot combination regulations should expand to other Zoning Districts

Transitional Zoning Districts:

Recreation Commercial

Residential – 1

Residential Medium

On August 28, 2023, staff issued a pending ordinance establishing a maximum lot size in these Zoning Districts. A public hearing is scheduled for November 8, 2023.

Approved 11.08.2023

LOT COMBINATIONS

Allow exceptions for lots platted prior to October 1, 2023

Update the purpose section of the Zoning Districts

HR – 1 Zoning District Purpose Section

Encourage single family development on combinations of 25’ x 75’ Historic Lots

Approved 11.08.2023

LOT COMBINATIONS

Preserve present land uses and character of the historic residential areas

Encourage preservation of historic structures

Encourage construction of historically compatible structures that contribute to the character and scale of the historic district and maintain existing residential neighborhoods

Define development parameters that are consistent with the General Plan policies for the historic core

Establish development review for steep slopes to mitigate impacts to mass and scale and the environment

Approved 11.08.2023

PARK CITY
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LOT COMBINATIONS

Staff recommends the Planning Commission conduct a public hearing and consider forwarding a positive recommendation for the City Council's consideration on October 26, 2023.

Staff recommends adding the following:

Historic Residential – Low

Single-Family Dwelling Lots greater than 5,625 square feet that were approved in a Subdivision or Plat Amendment prior to October 1, 2023, are exempt from the maximum Lot Area. (Line 11)

Approved 11.08.2023

PARK CITY 1884

LOT COMBINATIONS

Historic Residential – 1 (line 234), – 2 (line 465), and Historic Residential Medium (line 716)

Single-Family Dwelling Lots greater than 3,750 square feet that were approved in a Subdivision or Plat Amendment prior to October 1, 2023, are exempt from the maximum Lot Area.

Approved 11.08.2023