

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
SEPTEMBER 11, 2019

COMMISSIONERS IN ATTENDANCE:

Chair John Phillips, Sarah Hall, John Kenworthy, Laura Suesser, Doug Thimm, Christin Van Dine

EX OFFICIO: Planning Director, Bruce Erickson; Hannah Tyler, Planner; Caitlyn Barhorst, Planner; Alexandra Ananth, Planner; Rebecca Ward, Land Use Policy Analyst; Mark Harrington, Legal Counsel

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ROLL CALL

Chair Phillips called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Sletten, who was excused.

ADOPTION OF MINUTES

August 28, 2019

MOTION: Commissioner Kenworthy moved to APPROVE the Minutes of August 28, 2019 as written. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planner Caitlyn Barhorst commented on the Conditional Use Permit that was approved on August 14th for the property at 158 Main Street. At that meeting, and reflected in the Minutes, a question was raised as to whether the property line for the historic structure included the roof overhang. Based on the drawings presented at the time, Planner Barhorst thought it did; however, that was incorrect. She clarified that the property line is the existing structure and the roof overhang on the south side encroaches into the neighboring property.

Director Erickson stated that the original Minutes would not be changed. Instead, the correction would be attached to the action in the August 14th Minutes.

Commissioner Suesser asked if that notation was included in what Planner Caitlyn had handed out on 158 Main. Planner Barhorst stated that the neighbor, Helen Hendrickson, had sent that email to her and the Commissioners indicating that the property line described in the August 14th meeting was incorrect. Commissioner Suesser asked if anything needed to be clarified in the Findings of Fact. Planner Barhorst answered no.

Director Erickson noted that 901 Woodside Avenue would be continued this evening because the City Engineer was not able to attend the meeting. However, it was noticed for public hearing and the Planning Commission should take public comment.

Chair Phillips disclosed that he would be recusing himself from the public hearing on 901 Woodside Avenue due to a conflict.

CONTINUATIONS – (Public Hearing and Continue to date specified.)

V.A. Marsac Mining Claim 61 (approximately 8925 Marsac Avenue) – Zoning Map Amendment. The Applicant is Proposing to Rezone a 1.2-acre Portion of Marsac Mining Claim (approximately 8925 Marsac Avenue) located within the Flagstaff Annexation Area from Recreation Open Space to Residential Development.
(Application PL-18-04046)

Planner Rebecca Ward reported that the applicant for the Marsac Mining Claim 61 had requested a Continuance to a date uncertain. The item was noticed for public hearing.

Planner Ward noted that the Planning Department had received written public comment from Sandra Morrison with the Park City Museum; and her letter would be made available to the Planning Commission.

Chair Phillips opened the public hearing.

Sandra Morrison, with the Park City Museum, stated that the applicant was requesting rezoning of the property to residential development, to be consistent with the density approved for the 2007 Flagstaff Annexation and Development Agreement. However, the developer was requesting the benefits of the rezone without the encumbrances of the obligation. She did not believe that was in the best interest of Park City and its residents.

Ms. Morrison remarked that the first obligation was to reduce the historic explosives bunker. She provided a photo of the bunker. Ms. Morrison stated that the historic

explosives bunker was located on the property. It is a unique building and one of the most photographed structures in Park City, but it is quickly imploding. The chimney has fallen in, the roof is collapsed, dirt from the retaining wall is sliding into the tunnel. Nothing is holding up the front façade and it will eventually fall backwards and lose its integrity. Ms. Morrison stated that the Flagstaff Agreement includes the obligation to preserve this historic building. Representatives from REDUS and the Empire Pass Owners Association recently stated that this property is not a signatory to the Flagstaff Development Agreement, so the Master Owners Association has no obligation to maintain this historic explosives bunker. She stated that if they have no obligation then no one does. Ms. Morrison pointed out that as stated in the LMC, the property owner has the obligation to preserve the historic building and site. The explosives bunker is listed on the Historic Sites Inventory. She read from LMC Chapter 11 15.9 - Preservation Policy. "These buildings, structures and sites are among the City's most important cultural, education, and economic assets. In order that they are not lost through neglect, demolition, expansion or change within the City, the preservation of historic sites, buildings, and structures is required." Ms. Morrison thought it was clear that the property owner is required.

Ms. Morrison referred to Exhibit C, the applicant's statement from the August 14th Staff report. The applicant stated that they intend to develop the property as multi-family residential. Ms. Morrison read from the LMC under Historic Preservation, "The Planning Department is authorized to require the developers to prepare a historic preservation plan, as conditioned, of approving an application for a building permit that affects the historic structure, site, or object. The Planning Director and the Chief Building Official, or their designees, must approve the historic preservation plan". Ms. Morrison wondered if they would remember that there is a historic explosive bunker on the site that has not been stabilized or maintained when the application is submitted to build the multi-family. She questioned whether the explosives bunker would survive until that time.

Ms. Morrison asked that this approval be in alignment with the Flagstaff Development Agreement, because that agreement was intended to preserve the historic explosives bunker that is so unique to Park City's history. Ms. Morrison remarked that the obligation in the Agreement required this building to be stabilized 20 years ago, and to be maintained in perpetuity. Instead the property owner has neglected this historic building and it has fallen into extensive disrepair. The obligation to preserve this significant structure should be included in the conditions of approval of this application before considering any approval. Ms. Morrison stated that in the interest of future clarity regarding the obligations of the Flagstaff Agreement for historic preservation and ongoing maintenance of this specific site, the responsibility needs to be specifically

attached to the conditions of approval. Otherwise this building will be lost and forgotten and will suffer demolition by neglect.

Ms. Morrison stated that Finding #4 from the August 14th Staff report for this application states that on June 24, 1999, the City Council passed Resolution 20-99 authorizing the Flagstaff Development, which required the developer restrict development on certain properties, preserve the parking lots near City Hall, operate a private shuttle, spend millions of dollars on road construction, place a conservation easement on the acres and restrict development within the Flagstaff Mountain area to the designated pods. Missing is the Flagstaff requirement for the preservation of the historic mine sites; and specifically the explosives bunker identified on this property. Ms. Morrison reiterated that this requirement should be expressly included in the conditions of approval of this application. Ms. Morrison remarked that the Agreement also required the dedication of preservation easements to the City, as noted in Section 2.9.3 of the Flagstaff Development Agreement. She read, "...dedicating preservation easements with the City with respect to any such historically significant structures". She thought this requirement should also be expressly included in the conditions of approval.

Ms. Morrison noted that the Staff report also mentions the General Plan; however, this application did not meet the General Plan. She referred to page 595 of the August 14th Staff report and read Goal #4 – Open Space under Natural Setting. "The proposed zoning will maintain the recreation open space zone of the northern 2.7 acres of the Marsac Mill as intended by the Flagstaff Mountain Annexation and Development Agreement. Marsac 61 Development. "The applicant shall recognize and maintain access to trails and open space established in the Flagstaff Development Agreement. Ms. Morrison stated that the Flagstaff Development Agreement defines this historic explosives bunker as protected open space, as identified in Technical Report #5 of the Agreement. Ms. Morrison stated that contrary to the usual definition of open space, Technical Report #5 includes historic structures in the definition of open space. It specifically defines them as protected open space. Ms. Morrison asked the Commissioners to think of them as vertical open space. She referred to the Summary on page 1 of Technical Report #5 which states, Protected Open Space refers to portions of the plan area that will be preserved for the outstanding natural and/or cultural resource characteristics". Section 1.2 states, "The primary purpose of Protected Open Space is to promote the preservation of historic sites". "Another type of Protected Open Space applies to certain cultural resource sites. Several of the plans area, historic mine buildings, and associated structures are designed as Protected Open Space". Ms. Morrison stated that it specifically states that historic mine buildings and structures are open space. She pointed out that it was an interesting definition for open space. Ms. Morrison remarked that the August 14th Staff report states the application is in compliance with historic character, which is a goal of the General Plan.

She read Goal #15, "Preserve the integrity, mass, scale, compatibility and the historic fabric of the nationally and locally designated historic resources in districts for future generations". The Staff report indicates that Goal #15 is not applicable. Ms. Morrison felt strongly that it was applicable because the explosives mine bunker is listed on the HSI.

Ms. Morrison thought another consideration was the ongoing maintenance of the structure. The Flagstaff Agreement provided funding for the maintenance of protected open space, and that includes the vertical open space that is made up of these historic mine buildings and associated structures. She noted that the Flagstaff Agreement provided 1% of every real estate transaction to be collected into the Open Space Transit Management Fund in perpetuity. Ms. Morrison stated that since this property owner is not a signatory of the Flagstaff Development Agreement, the 1% fee will never be collected as these multi-family units are sold and the ownership is transferred. However, their neighbors next door will contribute to this fee. Ms. Morrison did not think that was fair. She thought the conditions of approval for this zoning amendment application should include a similar provision to support the ongoing maintenance of this historic structure.

Ms. Morrison summarized that for clarity in all future applications, and to abate the 20 years of neglect, the conditions of approval for this application should be revised to include the preservation and maintenance in perpetuity of the historic explosives bunker and the historic mine site located on this property by this property owner, and all future property owners. A date for stabilizing the building to be completed shall be explicitly stated. She suggested December 2020. Ms. Morrison stated that the conditions of approval should also include the dedication of the preservation easement of this explosives bunker and the associated historic mine located on the property in perpetuity. To provide equity with all current and future owners of Empire Pass, the property and the development should be subject to the 1% real estate transfer fee for historic preservation and to insure the long-term maintenance of this explosives bunker, as well as the open space on the property.

Ms. Morrison requested that the Planning Commission make the proposed zoning amendment fair and equitable. Many people spent an incredible amount of time crafting the Flagstaff Development Agreement and preparing Technical Reports #5 and 6, so all the historic sites within the 1,750 acres that were annexed into Park City would be stabilized and preserved in perpetuity. Ms. Morrison asked the Planning Commission to postpone this zoning amendment until the obligations for the preservation, stabilization, and the ongoing maintenance of the explosives bunker are clearly and unambiguously incorporated into the conditions of approval so in the future they will know who is responsible. She asked the Planning Commission to preserve

this unique and amazing structure for future generations, because without their help it will soon be gone forever.

Ms. Morrison stated that after reviewing the Staff packet from the work session on January 23rd she had an additional question regarding the actual location of the explosives bunker. She provided a handout of two maps that were taken from Exhibit B of the Staff report from the January work session. She had overlaid the two maps. The first one showed the overlay of the Marsac Mining Claim 61. The underlying map showed that the explosives bunker was not on the Marsac Mining Claim 61. Ms. Morrison hoped that the Staff would be able to answer the question before the next public hearing on this application to clarify whose property the bunker is located on.

Hope Melville stated that she agreed and supported Sandra Morrison's comments. Ms. Melville remarked that the historic bunker is a beloved historic mining structure. People have taken thousands of photographs standing in front of that bunker. Ms. Melville noted that it is a small structure and it would not take much to stabilize it. She urged the Planning Commission not to approve anything on Lot 61 of the Marsac Mining Claim until the explosives bunker is stabilized and a provision made for its maintenance. And it needs to be done in conjunction with the other Flagstaff Developers that are currently ongoing and their obligations for maintenance.

Chair Phillips closed the public hearing.

MOTION: Commissioner Hall moved to CONTINUE the Marsac Mining Claim 61 to a date uncertain. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Thimm understood that the location of the explosives bunker was unclear. City Attorney Harrington replied that the Staff would address that question to the best of their ability after they review the report. Commissioner Thimm clarified that it would be helpful when this comes back to know whether the bunker is on the property they are discussing.

Commissioner Thimm asked if the explosives bunker is one of the sites on the list for the inspection that was being done. Director Erickson was unsure and offered to look into it. Commissioner Suesser understood that they would be presented with a list of historic structures. She hoped the report would designate who was obligated to repair and maintain a specific site.

VB. 245 Woodside Avenue – Plat Amendment – Proposal to remove an interior Lot line to create one (1) lot of record 2,812 square feet in size.
(Application PL-19-04209)

Chair Phillips opened the public hearing. There were no comments. Chair Phillips opened the public hearing.

MOTION: Commissioner Van Dine moved to CONTINUE the 245 Woodside Avenue Plat Amendment to October 23, 2019. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

WORK SESSION

Park City Visioning 2020

Linda Jager, Community Engagement Manager for Park City, introduced Jed Briggs with Budget and Strategic Planning, and David Beurle, with Future iQ, the consultant on the 2020 Visioning project.

Ms. Jager stated that every ten years Park City Municipal engages in a Community Visioning project. After discussions with community members and getting feedback, the City draws up a vision statement and action plans that help inform the strategicals, and also help the Planning Commission with the General Plan. Ms. Jager reported that Vision 2020 was kicked off in June and it will be finished in January when the plan and the vision is presented to the City Council.

David Beurle provided an update of where they are in the process, as well as initial feedback. Mr. Beurle stated that the City Council instructed that the process be open, transparent, instructive and inclusive. The goal was to reach many people and to give the stakeholders and residents a say in the future. He presented a slide with a link to the project portal that can be reached from the City website. Mr. Beurle noted that all the material discussed this evening was either currently posted online or would be shortly.

Mr. Beurle stated that the planning process was fairly deep and extensive. He presented a diagram showing the major steps in the process. A community survey is currently running which asks people to react to topics and issues. Approximately 650 had taken the survey, and it would continue until November. Mr. Beurle believed there was useful information inside the survey that will be helpful to the Planning Commission

moving forward. Mr. Beurle reported that a Park City Think-Tank was held at the end of July. It was a two-day event and approximately 35 residents took the time to think deeply about the future and different possible scenarios. That report would be posted tomorrow. Mr. Beurle stated that they were currently involved in community engagement where a series of engagement sessions are held to allow people to interact and react to those scenarios. Earlier today they had a session with the City Staff. They also met with diversity representatives. Tomorrow they will be at the high school talking to students. Another round of input would occur in October. At some point they would also reconvene the Think-Tank.

Mr. Beurle stated that they were currently talking about this as being a future summit to compile all the information and to give the community a chance to provide input. That would lead to a strategic and high-level plan early next year.

Mr. Beurle stated that his observation of the planning process in Park City is that this community is a sweet spot. It is a highly successful, accomplished community with many good things occurring. However, the future might be more problematic. Mr. Beurle remarked that the framework tries to tease out a series of plausible scenarios so they can understand the implications of different directions.

Mr. Beurle remarked that in the Think-Tank they were trying to identify what were considered to be the big future-splitting questions in front of Park City as a community. Depending on the outcome, the questions could have a dramatic impact on the future and the shape of Park City in the future. Mr. Beurle identified two major questions. One was about community evolution. How does the community fabric, the community orientation, and the focus of the community evolve over the next decade. The next continuum talks about development trajectory and how this community deals with growth that is occurring around the community and how to respond. Mr. Beurle presented a graph showing the community evolution access. The left side talked about an iconic destination Mountain Town. The question is what happens here and what are the implications and how it plays out if the community continues being an iconic destination for another decade. He pointed out that the other side asked a very different question of what if the community embraces adapting and evolving in a direction that is more about building community fabric and being a place where multi-generational families can live.

Mr. Beurle stated that another question is what happens if Park City gets absorbed by growth. He noted that there was a lot of attention in the previous Visioning to Keep Park City Park City and to only focus on the ZIP Code and the City Limits. However, tens of thousands of units of development surround Park City. If that development overruns Park City, how will that change the future of Park City. An alternative question

is should Park City be architects of the future and get ahead of that growth. Should they begin to think more aggressively about technology, getting involved in regional conversations, and applying innovative solutions to some of the systemic issues.

Mr. Beurle remarked that the basic framework creates four different scenarios. In the Think-Tank they had people develop out what Park City might look like in 2030 if the conditions on the ends of the axis combine. For example, what happens if remaining a destination ski mountain town is combined with being architects of the future, and it plays out at a social and community level. Mr. Beurle stated that the names of the scenarios gives a clue to how the participants see the future.

Mr. Beurle presented some of the initial data. He pointed out that the lower left side of the Matrix represented no change. The upper right side represented the greatest amount of change. They also asked people to think about expected futures and preferred futures. Expected futures is where they expect the community to end up if there are no major changes in the current trajectory. Preferred future is the optimal future of Park City. Mr. Beurle stated that the data was preliminary from the Think-Tank and they were doing the same work with people in the community engagement sessions. He noted that the green chart were responses to the expected future. The preferred future looks very different because that group embraces bold change.

Mr. Beurle emphasized that this was still preliminary and they intend to speak with more people in the community. However, he believed what they have at this point reflects a deep appetite for doing things differently in Park City. In all the engagement sessions he heard that people have concerns about the trajectory particularly on community evolution; and also on the axis of the development trajectory. He believed the process gives the community the opportunity to think about the big issues that will shape the future, and what the community needs to do to find the sweet spot of where they want to be in 2030.

Mr. Beurle outlined the next steps in the process. They will continue with community engagement sessions, which will allow everyone interested to provide input. They will reconvene the Think-Tank and follow up with focus groups. Mr. Beurle stated that based on the feedback, many people are concerned that if they do not begin to think more boldly, Park City will be stuck in a reactive mode due to the changes that are occurring around the community.

Director Erickson stated that as a Planning Commission, their role would be to align the information from the Vision 2020 to the 2014 General Plan, or upcoming plans, and with the 2030 Plan. As the Planning Commission revises the General Plan, whether they move towards bold functioning or move to remain the same, the General Plan can

reflect the gathered information and they can use it to align the Land Management Code.

Chair Phillips asked if the General Plan would be updated after the Visioning. Director Erickson replied that it would occur at some point. The City Council first needs to digest this information and provide direction to begin considering certain elements of the General Plan. Director Erickson pointed out that some of the key elements were already in process, and they were currently updating Transportation and Housing.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

VIII.A. 1330 Empire Avenue, 1302 Norfolk Avenue, 1361 Woodside Avenue, and 1323 Woodside Avenue (Woodside Park Phase II Master Planned Development) Remand. On July 16, 2019, the Board of Adjustment reviewed an Appeal of the May 22, 2019 Planning Commission approval of the Master Planned Development application and remanded the review of Setbacks for the Master Planned Development application to the Planning Commission pursuant to LMC 15-6-5(C). The Planning Commission will review the applicant's updated submittal for compliance with 15-6-5(C) Master Planned Development Requirements - Setbacks. (Application PL-18-03822)

The team representing the applicant, Park City Municipal, introduced themselves. Anne Laurent, Community Development Director; Jason Glidden, Housing Development Management; and Kelly Morgan and Jarrett Moe with Method Studio, the project designers.

Planner Hannah Tyler stated that this item was the remand of the Planning Commission decision regarding setbacks. She reported that the Planning Commission previously approved the Master Planned Development for the entire project, including the setbacks consistent with the Recreation Commercial Zone (RC) requirement. Planner Tyler stated that LMC Section C of the Master Planned Development requirements gives the Planning Commission discretion to specify development setbacks to the underlying zone in order to achieve architectural interest and variation.

Planner Tyler explained that after the Planning Commission approval, the application was appealed, and the Board of Adjustment reviewed the Appellant's four appeal points. The BOA denied three out of four of the appeal points and remanded Appeal Point #2 regarding setbacks back to the Planning Commission. Planner Tyler stated that the BOA wanted to give the Planning Commission the opportunity to review the

adequacy of their previous Finding of Fact related to the approved zone setbacks for the project.

Planner Tyler stated that in response to this remand, the applicant had submitted supplement information that supports Finding of Fact #15 and Finding of Fact #19, consistent with the analysis on page 50 of the Staff report. This was an effort to assist the Planning Commission in better clarifying the previous approval of the setbacks as allowed within the MPD process, and consistent with the purposes of the MPD.

The Staff recommended approval of the proposed setbacks consistent with the Planning Commission's previous decision; and because of demonstrated compliance with the Land Management Code.

Jason Glidden stated that they were present this evening on behalf of the applicant to provide the Planning Commission with more information to reaffirm the decision that was made a few months earlier. Mr. Glidden stated that within his job as Housing Development Manager, he is tasked with providing affordable housing. There is a severe housing shortage currently, but that is only one part of his job. He is also tasked as a City employee to help the City further its other critical priorities, which include transportation, energy, and social equity. Mr. Glidden noted that he needs to keep all those elements in mind when they design these projects. Together, these priorities and goals help to make a more complete community and add a community benefit for the area.

Mr. Glidden stated that he is experienced in community engagement and reaching out to the community to learn their desires. Through that community engagement process, they try to incorporate those needs and desires into these projects to add the most community benefit possible. Mr. Glidden noted that the planning process for this project started over ten years ago, and it has gone through several community engagement events to gather information on what the community wanted to see at this site. That information was incorporated into the design as best as possible.

Mr. Glidden remarked that the Staff believes that the benefits of this design help to provide architectural interest; but more importantly, the community benefit they have worked to identify. The request for the zone required setbacks is necessary to accomplish some of these benefits and the desire of the community.

Mr. Glidden highlighted some of the public benefits. The first is the public walkway that runs from Park Avenue to Empire Avenue. The walkway will provide additional connectivity for both the community and guests. It will help to encourage alternative means of transportation. It also accomplishes Purpose #10 of the MPD process; as

well as Purpose #6 of the RC zone. The second benefit is a variety of housing options. The current design allows for townhomes and stacked flats in the design, and still maintain single-family. He pointed out that variety housing is a goal of the City in order to accommodate the different needs and wants of the people looking for affordable housing options. It also accomplishes Purpose #5 of the MPD process and Purpose #5 of the RC zone as stated in the LMC. Mr. Glidden stated that another community benefit is more usable open space. The design currently has a connection with the open space and the public walkway. That connectivity will promote more use of the open space; rather than pushing open space out to the edge of the buildings if forced to comply with the 25' setbacks. Mr. Glidden noted that more usable open space is Purpose #6 of the MPD process. He reiterated that the zone setbacks are necessary to accomplish all the benefits outlined.

Kelly Morgan with Method Studio applauded the City for the Vision 2020 that promotes affordable housing. Mr. Morgan noted that the issue this evening was about setbacks and reinforcing the original Planning Commission approval. When approval was given, he felt the design intent was clear and it was supported by the Planning Commission. They were back this evening to be clear that allowing the zone setback is both necessary and desired for the success of this project.

As part of reinforcing the original approval, Mr. Kelly talked about the term "architectural interest" and what it means in the community and day to day lives. In their professional opinion as architects, "architectural interest" relates to physical massing, but it also has an intangible and experience quality to it. In defining architectural interest, it is their job as architects to know and understand all the contextual queues they get from the projects around them. He presented an image of this project set into the context of the neighborhood. Mr. Kelly stated that some items that bolster the architectural interest of this project were the six townhomes on the front that provide a stepping down of the massing and relating to the context around it. As they step back, the larger mass of the project holds stacked flats in the middle of the block. As it goes higher on the hill and closer to Empire, the massing breaks down again and steps up the hill to relate to the context of its location. Mr. Kelly believed the allowance to utilize these lesser setbacks greatly enhances their ability to design a better and more contextual project. It allows them to break down the mass and make the project more pleasant and more compatible with the fabric of the neighborhood.

Mr. Kelly provided another image of what the project would look like along the streetscape of Woodside. He thought it felt very welcoming and complimentary, which also equates to architectural interest for the project. Another slide was a view looking from Park Avenue through Woodside Phase I; and across Woodside Avenue to the existing Senior Center. Mr. Kelly stated that the alignment is very important in terms of

blending into the fabric of the neighborhood. He indicated the pedestrian path, which is a key element in the success of the project in terms of making it architecturally interesting and functional for the community. It allows the ability to provide a welcoming atmosphere and a functional aspect of allowing access to the Resort. It also allows the ability to break apart these buildings into a variety of uses and masses for a more pleasing living experience.

Mr. Kelly presented a sight plan showing how the project would look like if the 25' setbacks are imposed along the entire perimeter of the property and how it would affect the usability. He pointed out that it greatly reduces the ability to provide an appropriate distribution of open space. It also limits appropriately sized structures. It forces a consolidation of structures to the middle and creates a more monolithic structure, which they tried to avoid. Mr. Kelly noted that the project, as designed with the zone setbacks, does not push any closer to the property lines than absolutely necessary; and in many cases they match the 25' setback. He stated that part of the appropriateness of designing these structures was recognizing and respecting the surrounding neighborhood. They could have pushed closer to the property line and added additional density, but instead they respected the neighborhood context and only went as far as they needed.

Mr. Kelly presented a streetscape looking from Empire and indicated a rhythm and scale that was respected. The reduced setbacks allow the project to build on the continuity of architectural interest that is already provided in the community. Mr. Glidden noted that the other structures on the street are closer with 5' and 10' setbacks. This design creates more space between the project and the neighbors. Mr. Kelly presented an elevation of the Woodside streetscape.

Mr. Kelly stated that they tried to do their due diligence to make the project comfortable without being imposing, and to address the scale on the side that lines up against the Historic District. He noted that even though their design is not required to adhere to the Historic District, they still respected the scale of the Historic District. Mr. Kelly believed that underscored the idea and definition of "architectural interest" and how it adds to the pedestrian experience. He thought the pedestrian area in the center that leads up the hill adds to the pedestrian experience because it invites residents, visitors, and Resort users to explore, utilize and enjoy this space. If the setbacks are imposed, they would not have that freedom and ability to create a more inviting project.

Jarrett Moe noted that the six townhomes have porches and steps that address the street. He thought that was also a key benefit of the project.

Mr. Kelly stated that they were asked to look at alternatives to the setbacks and what it would do to the project. The intent this evening was to illustrate the impact it would have on architectural interest. The project was designed with architectural interest in mind, and if the MPD setbacks are imposed it would be detrimental to the design and the success of this project. In addition, they tried to adhere to the LMC and the Zoning District. He believed the project design meets the Code in terms of neighborhood compatibility, strengthening the Resort character of Park City, encouraging usable open space, and promotes pedestrian connections with adjacent areas throughout the community. Mr. Kelly believed the zone setbacks are necessary and desirable for the success of this project.

Jason Glidden thought this was an acceptable request of any MPD. He noted that a number of previous MPDs received this exception to reduce the setbacks to the required zone setbacks.

Chair Phillips opened the public hearing.

Nikki Deforge, stated that she was speaking on behalf of Doug Lee, whose family owns the home adjacent to the Woodside MPD on Empire. Mr. Lee and his home are directly impacted by the setbacks for this project. Ms. Deforge stated that as she explained previously, the reduced setbacks for this project are legally unsupportable under the governing Park City ordinances. She noted that the Planning Commission approved this project with the reduced setbacks over Mr. Lee's objection, and it was consequently appealed to the Board of Adjustment. Mr. Deforge remarked that the Board of Adjustment unanimously agreed with Mr. Lee, voting to remand the project back to the Planning Commission because of the reduced setbacks, which did not comply with the legal requirements.

Ms. Deforge stated that there was no dispute as to the governing ordinance. It requires a minimum setback around the entire exterior boundary of at least 25'. She was disappointed to hear a statement from the Planning Staff that the Planning Commission can reduce those setbacks in order to provide architectural interest and variety. Ms. Deforge wanted it clear that that was not the legal standard. She stated that the legal standard is that the 25' setback cannot be reduced unless it is necessary to provide desired architectural interest and variation. That is the only legal basis for a reduced setback. Ms. Deforge stated that under this mandatory legal standard, the applicant must show that reducing the setback is necessary; not desired or wanted. It is not enough to simply point out architectural interest and variation in the project, as the architects have done this evening. It is not enough to find that reducing setbacks might result in some architectural interest and variation. It is not legal to agree to setback reductions because there are benefits to the project, or public amenities in the project,

or because they like the project, or because there is a severe housing shortage. None of those reasons are enough legally to support reduced setbacks from the 25' minimum. Ms. Deforge remarked that the setbacks requirements protect neighbors and reductions are allowed under very limited conditions.

Ms. Deforge noted that instead of the 25' perimeter setback, the developer was requesting 10-20' for front setbacks, 5-10' for side setbacks, and 5-10' for rear setbacks. That would be up to 80% reductions in setbacks from the default for MPDs under the ordinances. Ms. Deforge asked the Commissioners to imagine if they were the neighbor living next door and entitled to the 25' setbacks. In going through the Staff report, she asked them to think about whether these big setbacks reductions were necessary for architectural interest and variety. She thought the key word was necessary, because there was not a single claim in the Staff report or a Finding by the Staff that reduced setbacks are necessary in order to provide architectural interest and variation. She noted that the word "necessary" was only used when referring to the ordinance itself and the language in the ordinance.

Ms. Deforge read from Finding #15 in the Staff report. "Woodside Park Affordable Housing Phase II is requesting a setback reduction to the zone required setback so the development is aligned with the neighboring properties along the streetscapes of Empire, Norfolk, and Woodside". She stated that the applicant was also requesting an additional rear yard setback reduction to 5' from the required 10' for a portion of Lot 2 to accommodate a utility easement. Ms. Deforge remarked that neither of those reasons were encompassed within the ordinance. She noted that many neighboring properties on the streetscape have 25' setbacks, including Mr. Lee's home. In order to align with the streetscapes, it is not necessary to reduce the front setback to 10-15'. Ms. Deforge felt this was an attempt to justify reduced setbacks by claiming they align, when that was never the reason for the reduced setbacks. The project was designed and they are now looking for after the fact excuses for justification. Ms. Deforge remarked that there was no attempt to justify the rear setback for the utility easement as being remotely necessary for architectural interest and variety. Ms. Deforge stated that the building parapet wall on the other side of the 5' setback at the back of Mr. Lee's property would be at an elevation of 6,935 feet. The apartments at that level will look straight into his bedroom.

Ms. Deforge stated that regardless of anything else, there was no way the setback reduction falls within the necessary for architectural interest and variety exception.

Ms. Deforge reviewed a number of the statements in the Staff report that are meant to justify the reduced setbacks. She asked the Commissioners to decide if they are actually necessary for architectural interest and variety. The first is that the setback reduction will result in increased architectural variation. She explained why she

believed the requirement to comply with the 25' front setbacks would not alter anything, especially since many of the buildings on the street are already at 25'. The second statement is that the setback reduction will result in increased architectural variation because of the broken-up massing of multiple buildings rather than one large mass. She pointed out that nothing in that statement denotes the reduction as being necessary per the legal standard. Ms. Deforge noted that reduced setbacks are not required to break up the massing because it can be done easily while still complying with minimum setback requirements. She pointed out that in the footprint shown this evening, the buildings were not affected by complying with the 25' setback. However, the middle portion with the wide walkways would be impacted if they were required to comply with the 25' setback. The third statement is that the setback reduction will result in increased architectural variation because of the clustering of density towards the center of the site. Ms. Deforge pointed out that clustering of density in the middle does not require reduced setbacks, and instead eliminates the need for reduced setbacks. The fourth statement is that the setback reduction will result in increased architectural variation because of increased public plaza space and walkway. Ms. Deforge thought they could easily have public plaza and walkway space without reduced setbacks. As the architect admitted, the walkways are extremely wide and not necessary. It is not proper to increase these public areas at the expense of the neighbors' setback rights simply because it was designed that way. Ms. Deforge remarked that it was not an issue of necessity for architectural interest. It is a land grab at the expense of the neighbors. The fifth statement is that the setback reduction will result in increased architectural variation because of more welcoming and approachable pedestrian and trail connectivity. Ms. Deforge stated that it was not necessary to reduce setbacks in order to have approachable pedestrian and trail connectivity. The sixth statement is that the setback reduction will result in increased architectural variation, because of variation between the architecture of each building. Ms. Deforge thought this clearly was not a reduced setback issue. The buildings can be varied without reducing the setbacks.

Ms. Deforge emphasized that there were no Findings as to why reduced setbacks are necessary. The reality is that the project was designed based on an assumption that they would be given reduced setbacks to the underlying zone and not held to complying with the 25' setback required by the MPD. The applicant is here after the fact trying to justify the design and the need for the reduced setbacks. In the previous reports there was no mention of necessity or architectural interest and variety, and no justification for the reduced setbacks. She believed there was an expectation that the setbacks would be approved because this was a City project. Ms. Deforge stated that liking a project and wanting to see it move forward is not a legal basis for setback reductions, as the BOA found.

Ms. Deforge commented on recent statements made by the City in the media that this was a matter of Not In My Backyard opposition to affordable housing. She found that to be disappointing because it was an effort to delegitimize the valid concerns raised by the neighbors; and the failure to comply with the City ordinances. For example, the neighbors previously voiced concerns that the parking did not meet Code, and the City was forced to remove a townhouse. They raised another concern about the City counting the roof of the parking garage as open space, and the City was forced to change those calculations. Ms. Deforge stated that the neighbors have repeatedly raised the concern about the legally unjustifiable setback reductions. After being dismissed by Staff and the Planning Commission, they finally got the validation in a unanimous decision by the Board of Adjustment that the setback reductions were not legally supported. Ms. Deforge pointed out that none of those things were mentioned in the statements about this being a NIMBY claim in the media. The neighbors have also raised numerous other concerns they believe are equally valid and they intend to pursue if this project is approved. Ms. Deforge emphasized that this was not a NIMBY situation. It is a situation of trying to get the City to comply with its ordinances.

Ms. Deforge commented on another problem on the flip side of the NIMBY claim. She stated that when a project is not in their backyard they tend to “screw over” the neighbor who is adjacent to that project in order to get as much perceived public benefit as possible. She urged the Planning Commission not to allow that to occur with this project. They should not shove the setbacks for the project as close as possible to the neighbors’ property lines so they can have a nice firepit in the middle of a plaza with very wide walkways. Ms. Deforge believed they could easily comply with the setback requirements with a few tweaks without needing to redesign all the buildings. They need to balance the perceived public benefits and cool designs with the neighbors’ rights and entitlements to the setbacks. Setbacks protect the neighbors and they cannot and should not be reduced absent a clear bonafide absolute necessity. Ms. Deforge did not believe that necessity was present in this case at all.

Doug Lee stated that he was representing his family, the owners of 1356 Empire, adjacent to the project. His family has owned this property for 40 years. Mr. Lee stated that he is a licensed architect and his specialty is designing new additions to Historic Districts. He believed his experience made him well-qualified to judge the impact of the setback reductions in this project. Mr. Lee highlighted the key points of his opposition to Woodside II as currently designed.

Mr. Lee reiterated his previous comment that he fully supports the concept of increasing affordable housing in Park City. However, as a City-owned, publicly sponsored project, Woodside II should benefit all the stakeholders, including the immediate neighbors; not just the future residents of the project. Mr. Lee stated that he speaks for a group of

about two dozen neighbors who strongly believe that this project should be built without any exceptions to the setback requirements. He noted that during the Board of Adjustment hearing, the Planning Staff frequently mentioned that the project had been designed in consultation with the neighbors. Mr. Lee wanted it on the record that none of their concerns regarding traffic, density, setbacks, and historic preservations, which they have raised consistently over the last year, had been addressed at all. He added that the Board of Adjustment members, along with Commissioner Suesser, were highly sympathetic to all these issues. Mr. Lee suggested that rather than study ways to fit the building within the by-right setbacks over the last few weeks, the Planning Staff has simply insisted that the projects complies as it is. Mr. Lee noted that this was not in the spirit of the Board of Adjustment comments, where they explicitly requested that the Staff show why the applicant could not fit the project within the by-right setbacks.

On behalf of his neighbors and himself, Mr. Lee hoped that the City and Planning Department would listen to their concerns and incorporate their feedback by complying with the 25' setbacks.

Ed Parigian a resident at 1302 Norfolk, spoke about the unworkability of the reduced setbacks. He presented a slide showing a cube building 15' from the back of the historic house on Empire. That includes the 5' setback required for the house and the 10' setback required for the cube. The 15' driveway literally touches the house and the house literally touches the cube. Mr. Parigian pointed to a driveway on the east side of the historic home. His Subaru Forester is 15-1/2 feet. He questioned how someone with a larger car or a suburban could get out of a 15' driveway. Mr. Parigian commented on the inconsistencies between the Staff report and the MPD. He noted that pages 8-10 showed a buffer between the house and the driveway, but that buffer does not exist. He reiterated that the driveway literally touches the house and the cube building. Mr. Parigian understood what the City was trying to do. They acquired this piece of property after the project was initially designed, and they just squeezed in a cube. He did not think that was architectural interest at all and he thought everyone could agree that the cube offered no variety. Mr. Parigian showed a picture of his own car trying to back out of a 15' driveway with a 16' car. Norfolk is a narrow street that is not maintained by the City. He had placed trash cans to show 15' from the driveway and a slide of his car trying to back out. He pointed out that the trash cans would be a building and no one would be able to back out without hitting the building. He showed a slide of his car struck in the middle of the street with nowhere to go because there are buildings on both sides. Mr. Parigian pointed out that this was not a good plan. Fifteen feet with a building on both sides is not a workable solution. There is no way people can back out of their spot. He thought the plan disrespects the historic home. He pointed out that they were using the backyard of that home to calculate the open space.

He was unsure why they would include it when the property would eventually be sold separately and will not be part of the project.

Mr. Parigian also agreed with the previous comments that the reduced setbacks are not necessary for architectural interest. He was not opposed to the project, but the scenario put forth was not workable.

Chair Phillips closed the public hearing.

Jason Glidden addressed the comments by Ed Parigian regarding the setbacks between the historic home and the actual building. He stated that the setbacks for the buildings across the street on Norfolk are significantly less than 15'. In addition, if the 25' setbacks were enforced, it would basically make that side of the property non-developable because there is no way to meet a 25' setback. Mr. Glidden remarked that the lot is large enough in the Old Town area to split off and sell as a separate lot; however, that would reduce the setbacks down to 5' to 15'. If the 25' setbacks were enforced, the result would be a 5' setback on each property line for a total of 10'. Mr. Glidden pointed out that if these lots were split into individual lots and developed, the developer would have every right to have the zone setbacks at 10'. He clarified that they were only asking for 10' in certain portions of the property.

Chair Phillips asked about the comment of allowing an exception to setbacks because of it being necessary. He asked if the Code reads the way the Staff has interpreted it. Planner Tyler read from the purpose statement of the Master Planned Development section of the Code. "A project to have design flexibility necessary for well-planned mixed-use developments that are compatible with the surrounding neighborhood." Planner Tyler stated that within the MPD section is a Setback section that says, "...necessary to provide desired architectural interest and variation". Planner Tyler believed the architectural team was trying to portray that they find it is necessary to allow for the setbacks to be reduced to the zone requirement to allow for breaking up the massing. Planner Tyler remarked that architectural interest can mean different things to different people. At this point, they were discussing what the architects have been able to achieve by the zone required setbacks that are consistent with the intent of the MPD section. She explained that the purpose of going through the Master Planned Development process is not only because of larger projects, but to give the Planning Commission the discretion to allow for flexibility.

Chair Phillips agreed. The Code language reads, "necessary to provide desired architectural interest and variation". He pointed out that the language did not say necessary to put up a building. Chair Phillips recalled that the Planning Commission covered those discussions and asked questions regarding the impacts with lesser

setbacks. They also discussed how it would impact the rest of the project. Chair Phillips stated that as he looks at the main exhibit with the setbacks overlay of the existing buildings, he could picture the area within the red lines as being space for a building, which would result in a less desirable building that would impact the neighborhoods and the streets and be less compatible. Chair Phillips remarked that it was like a balloon. If you squeeze one side the other side gets larger. He believed that increasing the setbacks would negatively impact the streetscapes, as the architects had illustrated. Chair Phillips could see why the Planning Commission came to their original conclusion.

Commissioner Thimm stated that after the presentations and comments this evening, he had not changed his mind. He was disappointed that the design team did not show that by actually building to the setback lines along Woodside Avenue, the mass would have gone along Woodside Avenue instead of at the center of the site. Commissioner Thimm had pictures of the properties and this site would not be in character with the existing development going north and south on Woodside Avenue. Commissioner Thimm stated that in looking at the architectural character and the massing of the buildings, he believed the reduced setbacks are necessary to maintain the character of this neighbor. Commissioner Thimm remarked that breaking down the mass with the six townhouse units that touch Woodside Avenue in a residential way was important. Having a stoop and a porch and the feeling of a front door along Woodside Avenue is the right thing to do. A multi-story stacked flat building along that face would take away from the overall character.

Commissioner Thimm understood that public input has been that the large plaza space is not needed running east-west through the project; however, he sees it as a huge public benefit. It also serves to break down the massing. Commissioner Thimm recalled that when the Planning Commission originally reviewed this project, he was asked if the setback reduction was necessary and whether it provided architectural scale. At that time, he said it did and it was necessary. He explained that the alternative would be to put huge mass along Woodside Avenue but that would not be in character. In order to maintain the character and some of the precepts and requirements of the zoning, they need to look at the entire site and not just the face of each street. For that reason, he came to his original conclusion and he still believes it is right.

Commissioner Thimm believed that the City put an initiative in place for building affordable housing where it is needed, where people can walk to work, and be a part of the community on a day to day basis without driving in from Coalville, Heber, or other outlying areas. The way to do that is to densify. Commissioner Thimm thought it was about gives and gets. The City has been looking at ways of providing much needed

improvement to existing situations such as traffic, etc. Commissioner Thimm stated that in his opinion, putting affordable housing of this quantity in a very well-tailored site and putting the mass towards the middle of the block makes a lot of sense.

Commissioner Suesser stated that she would like to see this project built on the site, and she would like to see it approved. However, she believed the Planning Commission has the obligation to apply the LMC to the project, and the Code requires that the 25' setback must be put in place unless it is necessary to reduce the setback. She thought the requested setback reductions were significant and she did not think they appeared to be necessary. Commissioner Suesser believed the important public walkway could be accomplished without being as wide as planned. In her opinion, the requested setbacks are not necessary and they do not comply.

Commissioner Kenworthy found that the reduced setbacks were necessary. The scaling and the spacing provide the architectural requirement that allows for it. He believed the spacing more than compensates for the setback reduction. Commissioner Kenworthy stated that he also found the reduced setbacks necessary due to neighborhood compatibility. Whether the lots are divided into small lots with a 5' setback or a reduced setback on a large-scale development, the reduction is necessary. He thought it was a better option than putting a 25' setback around the project resulting in a huge mass that would not be compatible in the neighborhood.

Commissioner Hall concurred with Commissioners Thimm and Kenworthy that it is necessary to achieve the architectural variation. When she looks at the red outline, she thinks of a mini-Walmart design that would result from not having architectural variation. She believed if they complied with the setbacks and kept the same density, they would most likely get that type of massing, which is unacceptable.

Commissioner Hall understood that the front setback on Empire was 20' for the townhomes. She asked if it was possible to make that setback 25' or to realign the exterior wall. Jarrett Moe stated that Commissioner Hall was correct in her assumption that the northwest corner comes closest to meeting the MPD setback. They were looking at a roof plan view and the roof has 2' overhangs. Therefore, the wall in the northeast corner is where they approach the 20' setback. Moving to the south and west, that wall will comply with the 25' setback. He explained that the reduction to 20' is needed for the location of the northwest corner. Commissioner Hall thought it was such a small piece of the overall project that she would like it to comply with the 25' setback if possible.

Mr. Moe understood that Commissioner Hall was asking about the implication of sliding the Empire townhomes to the east. He explained that the townhomes were situated in

the location shown because the most significant grade change across the lot occurs on the east side of the townhomes. Even though the ridgelines are within the allowed height, every foot they move to the east changes the perceived impact of those ridgelines in relationship to the slope. Commissioner Hall asked if it would still be within the maximum height without needing a height exception. Mr. Moe replied that it would be within the allowed height; however, the visual impact to the neighbors would change because the perceived ridge height would be greater. Mr. Moe remarked that the applicant was taking input from the neighbors and trying to balance the different constraints. He stated that the difficulties of the site do not allow moving one piece while everything else remains the same. Making one small move ripples throughout the site.

Chair Phillips referred to the area next to Ed Parigian's house and asked what units were within that square. Mr. Moe stated that it was four one-bedroom apartments. Chair Phillips asked if there was a vestibule area between the next stacked flats. Mr. Moe replied that it was an egress stairway.

Commissioner Hall stated that in talking to various neighbors, the general consensus was that people prefer more overhang on the front setback versus extending on the rear setback. Mr. Moe clarified that it would be the relationship of the ridge to the existing grade. If they were to move five feet to the east, the perceived distance between the existing grade and the top of the ridge would grow, even though it stays within the allowable height. The neighbors on the north and south would perceive that as a tall mass. Based on neighborhood impact, that was not a desired approach. Chair Phillips understood that it was necessary to move into the setback in order to create better architectural variation that would benefit the neighbors. Mr. Moe answered yes.

Commissioner Van Dine referred to the Empire setback and asked how much was actually roof and how much was building. Commissioner Thimm thought the question was how much over the 25' setback was the building line. Chair Phillips pointed out that roofs are allowed to go into the setback. Commissioner Thimm asked if there was a limit on how far a roof could extend into the setback. Planner Tyler stated that there are setback exceptions within the zone, but she was unsure whether they apply to the boundary setback. If they do, Planner Tyler assumed it was two or three feet of an exception.

City Attorney Harrington would verify with the Code, but he thought any of the generally applicable exceptions for window wells and overhangs would continue to apply.

In response to the question regarding the building line in relation to the 25' setback, Mr. Moe replied that the building line extends approximately 3-1/2 feet in the northeast

corner over the 25' setback line. Commissioner Thimm asked if the building line would comply if the width of each of those five units was reduced 9".

Anne Laurent reminded the Commissioners that these projects were being done to meet a goal and to create density. She thought it would be unfair to ask the applicant to reduce their entitlements to develop the site for the purposes of a few inches. They could shift the entire building if they are required to meet the 25' setback; however, it would impact the view corridor. Ms. Laurent pointed out that they were already within the allowed density.

Commissioner Hall asked if it was possible to move the units to the east 3-1/2 feet. Ms. Laurent stated that if they were directed to meet the 25' setback, she did not believe they would accomplish it in that way. Commissioner Hall thought it was absolutely necessary to reduce some of the setbacks in order to achieve architectural variation. However, she was trying to find a way for some of the setbacks to comply if at all possible. She offered suggestions as a compromise or trade-off. Ms. Laurent remarked that any time something is moved, they give up something else. She was happy to address the concerns of the trade-off, but in talking about moving a few feet here and there, they would like clarity from the Commissioners on what that would achieve. They could shift it, but the result would be a taller edge. If the Planning Commission would prefer that, they would be happy to do it.

Commissioner Hall stated that after hearing the explanation and the impact to the view corridor, she understood why shifting the units was not a good idea. She thanked Ms. Laurent and Mr. Moe for walking her through it. Ms. Laurent stated that they have spent many months working on all the details, and she was not willing to redesign it on the spot. Commissioner Hall was not asking for a redesign. However, she questioned why some of what the Commissioners were suggesting was not originally considered by the design team. Planner Tyler stated that the Housing Team and the Project Team worked with the northern neighbor on roof heights and reached the point of placing the structure where it currently sits. Shifting the units would make the building taller, which is directly opposite of what they did to lower the building to the greatest extent possible.

Commissioner Van Dine thought the explanations gave the Planning Commission the "necessary" to justify the reduced setbacks. Making one change to meet the setbacks creates an impact somewhere else. She believed the justification for "necessary" was more than just a blanket excuse of architectural variation or interest throughout the project.

Mr. Moe walked through some technical points to illustrate the complexities of the site and the project in terms of the slope and how the property boundaries were currently

drawn.

Chair Phillips thought the combined explanations illustrate why it is necessary to reduce the setbacks to the zone requirement. Chair Phillips still believed the setback exception was necessary.

Director Erickson stated that if the Planning Commission chooses to approve the MPD in accordance with the Staff recommendation, he suggested that the motion direct the Staff to modify Findings of Fact #15 to address the specific comments this evening regarding height and parking and the necessity for the setback variation.

Commissioner Thimm thought the northernly set of stacked flats could be moved south to observe the 25' setback. He would like that to be a condition. Commissioner Thimm thought the width of the five townhomes could be reduced to observe the 25' setback along Empire Avenue. He understood the argument that the project was within the allowed density, but he was hard pressed to understand why those two setbacks could not comply. Commissioner Thimm asked if the applicant was willing to accept those two conditions. Commissioner Thimm clarified that he was not talking about reducing the width of the stacked flats. He was suggesting that they move the module down four or five feet. He understood that it would reduce the plaza space, which was already generous in size.

Commissioner Hall asked for further explanation on the justification for reducing the setback for the north stacked flats. Ms. Laurent stated that if the Planning Commission was willing to lose a couple of parking spaces, they could try to accommodate Commissioner Thimm's conditions. Mr. Moe clarified that if they moved an additional 5' to the south on the north boundary, they would lose a minimum of two parking spaces. Commissioner Thimm asked about the required parking density. Mr. Moe stated that currently they are several spaces over the required number of parking spaces. Commissioner Thimm pointed out that a reduction of two stalls would still keep the parking in compliance. Ms. Laurent recalled from the public hearing during the original approval, that the public did not think there was enough parking even though the project met the minimum requirement. Chair Phillips and other Commissioners also recalled the conversations regarding parking.

Chair Phillips stated that he would like to see the 25' setback achieved on Empire, even if it meant reducing each unit by one foot or less to avoid changing the height on the back end. He thought it was a minute adjustment to accomplish that setback.

Commissioner Hall wanted to see the Empire setback at 25', excluding the overhang. She preferred to sacrifice the view corridor rather than the density.

Planner Tyler pointed out that the units could be moved to accommodate the setback, but she wanted to make sure everyone understood that it would make the building taller. Commissioner Hall was comfortable with it being taller if it stayed within the required height.

Commissioner Hall personally preferred to keep the setback in place for the north stacked flats to enable more street parking, because previous public comments encouraged increased parking. The Commissioners concurred. Planner Tyler clarified that the north stacked flats would not be moved. The modification would be to shift the Empire Avenue townhouses to comply with the front setback.

Commissioner Hall referred to the south side of the Empire townhouses and asked if the part over the setback were the patio overhangs. Mr. Moe answered yes. Commissioner Hall asked if there was a diagram showing the exterior wall in relation to the south side of the setback. Mr. Moe asked if she was referring to the 25' illustrated MPD setback. Commissioner Hall recalled seeing a fairly large patio overhang that was potentially 3'. Planner Tyler presented a rendering. Commissioner Hall thought the portion into the setback was allowed because it was classified as roof overhang.

Planner Tyler clarified that the only condition was to move the Empire unit to comply with the 25' setback on the west side. Chair Phillips answered yes. Finding of Fact #15 should also be modified to include their comments this evening to justify the setback reduction.

City Attorney Harrington stated that the Staff would propose the Findings in written form based on their comments and bring it back to the Planning Commission for ratification at the next meeting.

MOTION: Commissioner Thimm moved to APPROVE the Woodside Park Affordable Housing Project Phase II MPD with direction to the Staff to amend the Findings of Fact, Conclusions of Law and Conditions of Approval per the commentary of the Planning Commission this evening; to be ratified by the Planning Commission at a later date. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed 4-1. Commissioner Suesser voted against the motion.

VIII.B. 8782 Marsac Avenue, Nakoma Lot 17 – Amendment to Condominium Plat – Friends of Flagstaff LLC, is Proposing to Adjust Lot Lines of Nakoma Lot 17 to Better Accommodate Construction of a Single-Family Dwelling. The Lot is Accessed off Marsac Ave. And is Subject to The Amended

Agreement For Flagstaff Mountain March 2007, which Granted the Developer/Owner a Large Scale MPD, and is Part of the Lot B, Northside Village Subdivision, II. (Application PL-19-04292)

Planner Alexandra Ananth introduced Marshall King, who was representing the applicant this evening.

Planner Ananth stated that Nakoma Condominiums was a residential condominium project located in Lot B of the Northside Village Subdivision II within the Empire Pass Development. She noted that the first Amended and Restated Nakoma Condominium Plat defined 17 residential units. Once a unit has been constructed, an amendment to the condominium plat is recorded reflecting the as-built conditions. Planner Ananth reported that Unit 17 had not been constructed and this application was a request for an Amendment to the Condominium Record of Survey Plat to alter the lot line for Unit 17 to better accommodate the construction of a single-family dwelling. Unit 17 is the only lot not accessed off Nakoma Court. It is accessed off Marsac Avenue.

Planner Ananth stated that Lot 17 was currently vacant and the applicant was proposing to straighten out the northeast lot line and to soften the curve of the southwest lot line to create a more usable building envelope, and to fit a house in better by straightening out the northern lot line in particular.

Planner Ananth noted that there was no change in the density or unit equivalents with this application. Lot 17 is adjacent to common area. The proposed lot line adjustment increases the lot by only one square foot. The City had not yet received an application for the construction of the house. However, it is assumed that any future development will comply with the Land Management Code, the RD zone, and the MPD, which limits the footprint to 5,000 square feet, as well as the maximum floor area at 7500 square feet.

Planner Ananth stated that a plat note requires that the driveway for this lot must be opposite the driveway across the street serving the Grand Lodge Condominiums. A permit from UDOT is required because Marsac is a State controlled roadway.

Planner Ananth stated that recently every time a project in Empire Pass comes up, the question of whether or not the Memorandum of Agreement applies is raised. She noted that the applicant, Friends of Flagstaff LLC, is a sub-developer and is not part of the original Flagstaff Development Team to whom the Technical Reports and the MOA apply. However, the applicant is a member of the Empire Pass Owners Association, who is a party to the MOA, and therefore contributes through the Owners Association.

The Staff finds that the Condominium Plat complies with the Land Management Code and State law regarding subdivision; and is consistent with the controlling documents. The Staff recommended that the Planning Commission conduct a public hearing, review the application and draft findings of fact and conditions of approval, and forward a positive recommendation to the City Council pursuant to the draft ordinance found in the Staff report.

Planner Ananth received two emails with public comment and were provided to the Planning Commission this evening. One was from Sandra Morrison with the Park City Museum and the other was from Larry Gates who was concerned about the driveway location. Commissioner Hall asked Planner Ananth to address the public comments. Planner Ananth explained that Larry Gates, an owner at Ironwood, was concerned about the access off Marsac Avenue. Mr. Gates had requested a sketch of the proposed lot lines and rendering of the house. Planner Ananth responded to Mr. Gates and told him that the City did not have a rendering of the house at this point, but it was subject to a plat note, which requires the driveway to be located directly opposite the driveway for the condo building across the street. She encourages Mr. Gates to continue to follow the process as it moves forward towards constructing the house.

Planner Ananth responded to the email from Sandra Morrison. She had anticipated public comment similar to what they heard for Twisted Branch Road. She commented on Mr. Harrington's differentiation between the developer of the Flagstaff Agreement as being the big "D" developer, as opposed to the "little d" sub-developers. The sub-developers are a party to the Master Owners Association, which is a party to the MOA. Therefore, they are contributing towards the preservation and open space technical report goals via the Owners Association.

City Attorney Mark Harrington clarified that when he talked about the big "D" little "d", he was paraphrasing Outside Counsel Jody Burnett's explanation on a previous application. Mr. Harrington thought they would see a clear pattern from the Museum and others regarding the obligation of the sub-developers. The public input was welcomed; but the Planning Commission had an administrative approval before them on a subsequent applicant to adjust two lot lines. Mr. Harrington did not recommend holding up the ability to process this application on the basis of an overall agreement when nothing touches or concerns this particular four corners of the property. He believed the City would lose the argument if they try to hold up every sub-application. The Staff recommended that the Planning Commission proceed with the other agreement in a different course. The ones that have actual parcels with historic structures are different and are evaluated case by case. Mr. Harrington emphasized that this was a very administrative condominium line adjustment. There was no basis to hold up every application, and even thought the Planning Commission could

recommend that the City Council consider doing that, it was not the Staff recommendation.

Commissioner Hall asked if there was line for where the legal recommendation from Staff for where the Development Agreement will affect an applicant. Mr. Harrington replied that it would be a case by case determination. The properties that have actual historic structure on them would be the first threshold. However, it first needs to come across in terms of whether the City Council would accept the Agreement as drafted; and whether additional parties come on board before the City Council decides whether or not it will impact their decision. In this case, Mr. Harrington did not believe the property owner should be held hostage to other property owners. That might be possible in some cases, but given the history of this development and how it has unfolded, he would not recommend it.

Commissioner Kenworthy asked if they were still on track for receiving the inventory report in the next four weeks. Director Erickson replied that to his knowledge it was still on track. Director Erickson clarified that Planner Ananth incorrectly used MOA on the title sheet when it was actually the Development Agreement, the DA. The MOA in bullet point one should say the Development Agreement and Technical Reports #5 and #6.

Commissioner Hall asked if this property was subject to the 1% real estate transfer. Mr. Harrington answered yes. Commissioner Hall asked if there were any historic sites on the subdivision. Director Erickson answered no.

Commissioner Suesser asked if there was a picture showing the location of the driveway across the street. Planner Ananth pointed to the location on an aerial slide.

Chair Phillips opened the public hearing.

Sandra Morrison with the Park City Museum stated that she did not like taking these applicants by surprise that their application needs to comply with the controlling documents and the Flagstaff Annexation Agreement of 2007. That was long time ago and people have forgotten about it. Ms. Morrison stated that when a work session was held in January to discuss what the Flagstaff Annexation Agreement said, she thought it was good discussion and the Staff came up with a great idea of doing a Memorandum of Understanding. Ms. Morrison pointed out that there is no longer a big "D" developer, and they cannot talk to United Park Mines because they defaulted and Wells Fargo now owns all the property except the pieces that were sold off. She did not know who originally developed Nakoma, but that developer sold off those pieces of property and now one owner owns one lot. Ms. Morrison remarked that January was a long time

ago. She would not be here this evening if they had moved faster on the Memorandum of Understanding and if it had not diminished the obligations clearly stated in the 2007 Annexation Agreement.

Ms. Morrison noted that the Staff report mentions the controlling Flagstaff Development Agreement in the Ordinance on page 69. She read, "The best interest of Park City, Utah to approve this application consistent with the Flagstaff Annexation and Development Agreement". Ms. Morrison pointed out that it was not consistent with the Flagstaff Annexation; and therefore, it is not in the best interest of Park City and its residents. Ms. Morrison stated that people have been expecting these buildings to be stabilized and maintained for 20 years. The condition of the buildings today was neither stabilization nor maintenance. Ms. Morrison remarked that the application was not consistent with the conditions and the obligations. She strongly disagreed with #3 of the conclusions of law that approval would not adversely affect the citizens of Park City. She also disagreed with #4, that neither the public nor any person shall be materially injured. Ms. Morrison noted that the citizens have not seen preservation and maintenance for the last 20 years and there were no signs it would happen any time soon. She believed they were all being materially injured.

Ms. Morrison noted that the conditions of approval on page 71 states, "All conditions of approval of the Flagstaff Annexation and Development Agreement shall continue to apply". She stated that the approvals and the obligations follow the property. Ms. Morrison remarked that waiting until they find a piece of property with a historic structure on it was a red herring. She pointed out that the Flagstaff Annexation Agreement put all the development into pods in order to preserve the historic mine structures and the mine sites on the open space, which is why they are defined in the Annexation Agreement and in Technical Report #5 as Protected Open Space. She stated that there will never be an application in the Flagstaff Agreement that includes a historic mine or a historic mine structure.

In terms of the big "D" versus the little "d" developer, Ms. Morrison reiterated that the big "D" developer is gone. All that is left are the little developers, such as REDUS, Storied Development, individual homeowners, and people who own vacant lots. Those are the people they need to work with to move this forward, and if they do not, preserving those buildings will never happen.

Ms. Morrison commented on why the Flagstaff Agreement applies to this particular property. She read from Section 2.1 of the Agreement. "The developer is hereby granted the equivalent of a large-scale MPD setting forth the densities, location of densities, and the developer offered amenities subject to all the normal applicable City processes". That includes satisfactory plans, including the detailed open space

management plan, and the historic preservation plan. Ms. Morrison remarked that these plans, now known as the Technical Reports, address retaining and saving the historic mine sites located throughout the 1700 acres of annexation area. Ms. Morrison stated that in Section 2.9, the Flagstaff Mountain Mitigation/Amenities, states that the developer offered as amenities to mitigate this development as an inducement to execute this Development Agreement. Ms. Morrison pointed out that the City had obligations under this agreement and the little “d” developers have obligations. Ms. Morrison noted that the Agreement also listed all the community benefits offered by the developer, which included constructing public trails, the parking lot in Richardson Flat, limiting woodburning fireplaces to one per home. The amenities continued on Section 2.9.3 of the Flagstaff Annexation Agreement and historic preservation is one of those amenities. She read, “The historic preservation plan at a minimum shall contain an inventory of historically significant structures located within the project and shall set forth a preservation and restoration plan, including a commitment to dedicating preservation easements to the City with respect to such historically significant structures”. Ms. Morrison stated that Technical Report #6 was approved in December of 2001. In the Executive Summary it says the historic preservation plan dated August 2000 is a 127 page detailed document produced by SWCA Consultants. Accompanying the plan is a 5-page chart that reviews the same information in an abbreviated form. It also includes a brief description of every important site within the boundary of the Annexation Agreement. There was also a short history and an overview of existing conditions, and the recommendations for preservation associated with each site. Ms. Morrison noted that chart also included a timeline for phasing the restoration and remediation of the sites. Ms. Morrison pointed out that the chart differs at various times from the 127-page report, which was a serious discrepancy that needed to be corrected.

Ms. Morrison remarked that the Executive Summary goes on to state, “Concurrent with the first CUP authorizing construction of residential units, the Flagstaff Mountain Partners will submit to Staff a plan detailing the repairs and stabilization of the historic features in a public protection plan for these structures and mining features”. Ms. Morrison noted that this plan has never been submitted, and the developer, whether big “D” or little “d”, is not in compliance with the requirements of the Flagstaff Annexation and Development Agreement.

Ms. Morrison stated that page 1 of the chart identifies the Judge Mining and Smelting Company Office. Column 5 states that with the first phase of development, restoration of the building will be initiated. After restoration, the building is anticipated to serve as an office. Ms. Morrison acknowledged that there was no date as when the restoration would be completed, but it definitely says restoration; and that obligates the developer to do the restoration that the community was still waiting for. Ms. Morrison remarked

that the Staff has proposed the Memorandum of Understanding with two of the Empire Pass developers to each contribute \$40,000 for a new roof, but there is no guarantee that a 100 year-old building in serious dilapidation could support it. Ms. Morrison stated that in 2001, the SWCA report was concerned with the cracked lines in the roof structure, the leaking roof causing interior moisture damage, and the lateral displacement of the east and south concrete walls. Technical Report #6 states, "At a minimum, the building should be examined by a structural engineer who can recommend a treatment plan to address any structural problems". She pointed out that work on the Judge Building was given high priority in 2001. Ms. Morrison noted that work on the Judge Building was currently estimated at \$350,000. She did not understand why they were diminishing this obligation in the Memorandum of Understanding. Ms. Morrison believed that all the current developers, including the Friends of Flagstaff, should contribute to the restoration, and the City should require that the contractual obligations be met before approving any applications within the Annexation boundary. Ms. Morrison remarked that the developers expect the City to meet their obligation of the Flagstaff Development Agreement and they expect their entitlements. The City should have the same expectation.

Ms. Morrison noted that the Chart also identifies the stabilization of the Little Bell Ore Bin with the first phase in 2001. She pointed out that stabilization never occurred until the Park City Museum performed it in 2018 and spent \$65,000 to save the structure. They were still waiting for reimbursement and had hoped to have the money reimbursed to use this summer. Ms. Morrison stated that Technical Report #6 also included both the Summary and the 127-page Preservation Plan, which identified certain historic mining related properties in the Flagstaff Mountain Project Area and a description of recommended work that would mitigate the features deficiencies. It also noted that SWCA was not a safety engineering firm and recommended that a qualified individual or organization perform on-site inspections. Ms. Morrison pointed out that SWCA never envisioned that their report would be the end of the recommendations.

Ms. Morrison reiterated that the developer needs to submit the report that was required by the Agreement and be approved by the City before any applications, including the one this evening, can be in compliance with the 2007 Annexation and Development Agreement. Ms. Morrison stated that within the 127-page historic preservation plan on pages 123-125 was a treatment plan with a key word "yes" equaling "recommended". The historic sites that stored "yes" in the treatment plan and were recommended for stabilization included the Ontario Mine Water Tanks. The 127-page report also identified the Daly West Fire Hydrant Shacks and the White Pine Log Structure with recommendations for stabilization; however, those structures were not mentioned in the 5-page Summary.

Ms. Morrison commented on the discussion at the last meeting regarding the report the Master Owners Association was preparing. She asked if the report was an inspection of the Judge Mining and Smelting Building; whether it is a report on the three sites listed in Exhibit A of the MOU; or whether it was report on all 22 sites in Technical Report #6. She was unclear on what report was being done and asked if it was the plan promised in the Summary in Technical Report #6 concurrent with the first CUP.

Director Erickson stated that in general the report would cover all 22 sites. He preferred to wait for the report before discussing it further.

Ms. Morrison summarized that the developer, whether big "D" or little "d", is required under the Flagstaff Development Agreement to restore the Judge Mining and Smelting Company Office. That is the condition in its entirety, and it should be part of this Nakoma Lot 17 application before it can be approved. Under Technical Report #6, the developer is required to submit a plan detailing the repairs of the stabilization. That condition needs to be met and the plan should include completion dates. Ms. Morrison stated that at a minimum for this application, the developer should be added to the proposed Memorandum of Understanding. The same requirement that applied to REDUS and Storied Development to provide funding for the Judge Building should apply to this developer as well. She also thought the same Findings of Fact and Conditions of Approval that were included in the Storied Development Condominium Plat approval relative to compliance with the Flagstaff Development Agreement should be included in the Findings of Fact and Conditions of Approval of the ordinance for this application.

Ms. Morrison reiterated that the obligations of the Flagstaff Agreement on both the developer and the City remain with the land. Therefore, the obligation requires all the developers, including the Friends of Flagstaff, to stabilize and preserve the historic mine sites; especially the historic Judge Mining and Smelting Building. Ms. Morrison requested that the Planning Commission use this current opportunity to achieve the required stabilization and maintenance and to make that vision become reality. She asked the Planning Commission to postpone approval of this plat application until the developers' obligations are met; or at least until the Memorandum of Agreement is in place. The citizens have been waiting 20 years and she urged them not to kick the can down the road one more time. Eventually there will be no developers left and they will have lost the opportunity to preserve these amazing historic structures.

Commissioner Kenworthy asked if Ms. Morrison saw any easements that this particular applicant controls. Ms. Morrison replied that the easement is part of the Master Owners Association and they can affect the implementation of the Memorandum of Agreement. Commissioner Kenworthy clarified that he was asking if there were any easement

issues specific to the historic sites. Ms. Morrison stated that there were no easements on any of the historic sites. She reiterated that there are no historic mine sites on any of the development properties in the Flagstaff Annexation area because it was specifically designed to designate all the historic structures as Protected Open Space. Ms. Morrison clarified that a development property will never have a historic structure on it because they were specifically excluded from the development pods to ensure they would be preserved.

Sally Elliott apologized to the developer for having to ask for a delay. It was not the fault of this specific developer, but the fault is that nothing has been done in 20 years. In considering their decision, she asked each Commissioner to decide whether they wanted to be complicit in passing the buck and kicking the can farther down the road, or whether they were willing to help get this right before approving further development. If the Commissioners decide to enable further development at the peril of possibly losing some of the historic structures, she would hold them responsible.

Randy Scott, a resident at 1359 Park Avenue, thought Ms. Morrison gave a good overview of the problem. He also apologized to the developer because it was inherited. Mr. Scott stated that he attended at lecture at the Education and Collection Center. There are amazing structures that still have a story but need help. Mr. Scott commented on the number of people who want to help, but their hands are tied. He recommended that until they get the detailed report that they make their decisions accordingly; and with each little "d" because there is no one key "D" responsible. Mr. Scott remarked that he sits on the Historic Preservation Board and he believed the HPB could resolve this situation in a ten-minute conversation. Since there is not one responsible developer, he suggested adding a condition of approval to every proposed development. He agreed with the previous speakers that if they continue to do nothing these structures will be lost. Mr. Scott pointed out that historic preservation is a core priority of the City Council and this is part of that goal.

Sanford Melville, an Old Town resident, agreed with Sandra Morrison's very detailed analysis of the situation, and he echoed the comments of the other speakers this evening. Mr. Sanford stated that a tried and true method in Park City is demolition by neglect. It is one way to deal with historic structures in Park City, but it strips away Park City's history. This is allowed to happen frequently. Mr. Sanford pointed out that it has been 20 years since the Flagstaff Development Agreement and still nothing has been done. He understood they could not undo two decades of delay and neglect, but they can certainly do something; and it needs to be done now. Mr. Sanford urged the Planning Commission not to approve this plat amendment until the obligations for historic preservation have been satisfied.

Chair Phillips closed the public hearing.

Chair Phillips sensed that Ms. Morrison was feeling a little deflated and he did want her to feel that way. He emphasized that if it had not been for Sandra Morrison and her group, they would not be going through the process of getting a report. Chair Phillips assured everyone that the Commissioners were trying to get to a place where they know what to do. However, until they have the information in the report, they are not able to do much. He clarified that the Planning Commission would not do a moratorium on development until they have some answers because that would be unfair to a developer caught in the middle. Chair Phillips anticipated lengthy discussions once they have the report, and he believed Sandra Morrison and her group would be key in helping with those discussions. Chair Phillips reiterated that the Planning Commission would not be at this point if it were not for Ms. Morrison and others who are just as passionate and interested in preserving the historic structures. He understood that everyone would like the preservation work done now, but there is a process to follow before they can reach that point. Chair Phillips assured everyone that the Planning Commission always welcomes their comments.

Commissioner Hall asked where developers or homeowners fall if they are subject to the Development Agreement, but they are not a signatory on the MOA.

City Attorney Harrington repeated his comment from the last meeting that he was hesitant to discuss the MOA because it had not yet been signed by the City Council. He wanted to be direct in his response; but he did not want to hurt the City's position with the next person in line. Mr. Harrington explained that generally the subsequent owners inherit the responsibilities as they apply to the property they purchased. They have the right to rely on prior approvals which enabled them to get to that point. For example, if someone buys a single-family lot in a specific subdivision, they rely on the closing documents and the title as it incorporates the fee title; and not contract obligations that apply to a different part of a Master Planned Development. Mr. Harrington remarked that there are exceptions to that, and they have looked for those exceptions. In this case, the request is for a very nominal condominium adjustment, and in his opinion, there was no basis for the Planning Commission to hold up the process. Mr. Harrington emphasized that the City needs to pick its battles. The last thing they want is a premature appeal on one application and get a bad ruling on one that might have otherwise been successful. Mr. Harrington stated that he was as frustrated as the Historic Society with the incremental approach they are forced to take at this time. However, the Staff was doing an excellent job with the hand they were dealt, and progress was moving forward professionally and methodically within the parameters they have. Mr. Harrington agreed with Chair Phillips that the comments from the Historic Society continue to help the Staff in the process.

Commissioner Hall asked when the MOA was expected to be signed. Mr. Harrington replied that the MOA needs to be approved by the City Council prior to the next REDUS plat and no later than the Twisted Branch subdivision plat. It has lingered due to other unrelated issues. However, because of the delay they continue to seek out other opportunities.

Commissioner Kenworthy wanted to hear from the applicant in terms of his understanding of the situation and if there is a plan.

Marshall King, representing the applicant, stated that this was all new to him. He was also working on the Twisted Branch subdivision plat and he was aware that that application was held up for this reason. Mr. King had not expected this to be an issue this evening because it was a simple line adjustment. However, he understood everyone's position and he admired their persistence for saving the historic structures. Mr. King had not anticipated this much comment, but he understood why they wanted to keep it in the forefront. He hoped the report would be completed soon so things could move forward.

Commissioner Kenworthy asked what Mr. Marshall planned on doing for this application in terms of providing a plan and what he felt was his obligation. Mr. Marshall stated that the perspective buyer of this property wanted to make sure the unit line could be adjusted. He was hesitant to do anything until he is sure it will be approved. The applicant intends to build a home. He had started designing the home but no plans had been submitted. Mr. Marshall emphasized that the design would comply with the LMC and the conditions of the plat. He was unsure why the lot line was configured with a notch taken out. It occurred years ago and he was not involved with the project at the time. The applicant was requesting to adjust the lot line to create a more reasonable shape so they can build the home they want in compliance with the LMC and the conditions of the plat.

Commissioner Thimm had looked carefully at the lot line that was proposed to be adjusted and he was not opposed to the request. He thought it was logical in terms of the geometry of the land. Commissioner Thimm stated that after listening to the commentary from the public, the Staff, and the City Attorney, he thought it could be looked at from two extremes; either none of the development parcels are encumbered or all the parcels are encumbered. His reading and understanding of the Flagstaff Agreements says that all the parcels are encumbered. Commissioner Harrington thought City Attorney Harrington reinforced the fact that the requirements of the Agreement ride with the ownership of the land. Based on that fact, Commissioner Thimm felt there was reason to postpone action on the application before them this

evening. Similar to his thinking at the last meeting, Commissioner Thimm thought the Planning Commission should wait until the report is submitted and the findings are made before approving any application. He suggested a continuance this evening.

Marshall King stated that he only attends these meetings when he feels it is necessary, and the perspective buyer requested that he attend this evening. He wanted to know how many times this has occurred with all the other plats that have come before the Planning Commission. He recalled that those plats were approved because they complied with the LMC. Commissioner Thimm stated that at least two other times were continued or postponed because the Planning Commission wanted to wait for the MOA and the inspection report listing all the sites outlined in Technical Report #6. Mr. Marshall named other sites that he knew were approved in Empire Pass. He noted that a number of plats have been requested and this was the first one he knew that was suggested to be continued. Mr. Marshall understood the Twisted Branch plat was continued at the last meeting, but that applicant was basically the developer.

Chair Phillips was concerned that the Planning Commission was getting close to a moratorium and he could not see the benefit of holding up a small plat amendment.

Commissioner Kenworthy thought several plat applications had been continued. He understood Mr. King's concern and he did not want to slow him down from doing his work. However, the Flagstaff Agreement has been ignored for a long and it was time to address it. Commissioner Kenworthy noted that many of the Commissioners were new and they were just recently made aware of the situation. He was not trying to blame previous Planning Commissions, but apparently this has been kicked down the road for a very long time. Commissioner Kenworthy was not interested in kicking it any longer. He was also not interested in hurting Mr. King's business opportunity, but one of his questions was about a plan and Mr. King had not answered that question or presented a plan. Commissioner Kenworthy stated that concurrent with the first CUP, the Planning Commission should expect to see a plan from every developer. He concurred with Commissioner Thimm that they should continue this application until they get the report. Once they have the report the Commissioners can address specific sites and specific ownership, with specific conditions for these properties, and they will be able to do it in an informed way. At this point, he did not believe they were able to do that. He understood Mr. King's point that this application was a simple line adjustment, but approval would be kicking it down the road again.

Commissioner Hall concurred with Commissioners Thimm and Kenworthy that this item should be continued.

Commissioner Suesser had other concerns about the project aside from non-compliance with the Flagstaff Agreement. She was not convinced that it was consistent with criteria listed under the Purpose of the Residential Development District. Commissioner Suesser was concerned that Unit 17 was not connected with the cluster of the rest of the Nakoma condominiums. She noted that the unit is separate which did not meet the criteria to encourage clustering of residential units. Commissioner Suesser stated that it did not promote pedestrian connections within the development in between the areas, as required in the criteria. She pointed out that there was no pedestrian connection between this pod and the rest of the development. In addition, the proposal creates a new road and access off Marsac rather than using the road that was constructed for this condominium development. Commissioner Suesser asked Mr. King to address her concerns.

Mr. King stated that the plat was approved many years ago with a condition that was approved by the Planning Commission and City Council at that time. Commissioner Suesser asked if the plat showed the connections and access. Director Erickson explained that this lot was right next to the ski bridge that connects to Pod A. It is on the ski run that connects down to the Empire lifts. Those are the two connections. Director Erickson stated that the walkway over the bridge ends in the middle of the condominiums. He clarified that the connections were the ski run and the ski bridge to Pod A. It is all walkable.

Mr. King named other plat requests that were approved within the last year or two. If he had his spreadsheet he could name several others in Empire Pass that were approved and not denied based on the MPD.

Commissioner Hall clarified that the Commissioners were not suggesting a denial. They were suggesting a continuance until they have the necessary information. She pointed out that this situation only came to their attention recently. She believed it was kicked down the road with the past applications because previous Planning Commissions did not have the full understanding and information.

Chair Phillips clarified that Mr. King was naming applications that were approved within the last year or two.

Commissioner Kenworthy stated that the Flagstaff Agreement requires a plan; and the Commissioners were only trying to move forward with the information they were recently given to comply with the Agreement. He stated that historic preservation is an economic driver. It is good for developers and great for the City. Commissioner Kenworthy stated that the Planning Commission was willing to work with Mr. King and the applicant, but they needed to see a plan. He agreed that similar applications have

been approved, and he wanted it clear that the Planning Commission was not talking about denying this application. He emphasized that they were within a month of getting the report and being able to digest the information so together they could all make a plan.

Chair Phillips asked if there were other applications from Flagstaff that would be coming to the Planning Commission. City Attorney Harrington stated that the Planning Commission has no power to institute a moratorium or an indefinite continuance. The applicant has the ability to consider that a negative recommendation and move it forward. The Statute is very clear that the Planning Commission cannot stop applications in a recommendation capacity. Mr. Harrington stated that the Planning Commission can request additional information from Staff or the applicant related to the criteria that is applicable to the application. Absent that, the Planning Commission has no moratorium authority. Mr. Harrington stated that the Planning Commission can recommend denial to the City Council or recommend that the City Council institute a moratorium.

Mr. King felt they were being arbitrary in choosing this one owner. He was not trying to build anything at this point. Mr. King believed the report and all the required information would be given to the Planning Commission before the owner was ready to build. This request was a simple lot line adjustment on paper.

Chair Phillips clarified that Mr. King was here this evening on behalf of the perspective buyer to make sure that before they spend more time and money on house plans, that they can do the lot line adjustment. Chair Phillips assumed that aside from the issues related to the Flagstaff Agreement, the Planning Commission would have no problem approving this request. At this point, he asked if the Commissioners could indicate to Mr. King that there is a very good chance they would eventually get this lot line adjustment. Chair Phillips was concerned that the technical report could be late and extend to six weeks. Once the report is submitted, the Planning Commission would still need to digest the information and discuss it. He could see a scenario where this could extend into the holidays or beyond. Chair Phillips did not want a situation where the Planning Commission stalled development in Empire Pass.

Commissioner Van Dine agreed that they should not hold a plat amendment hostage. The applicant will need to come back to the Planning Commission once they submit building plans. She noted that Mr. Harrington said they needed to pick their battles. Commissioner Van Dine did not believe this was the appropriate one to arbitrarily decide how they plan to deal with the Flagstaff Agreement. Chair Phillips concurred with Commissioner Van Dine.

Commissioner Hall asked if it was possible to extend Condition #3 regarding the Flagstaff Agreement requiring the applicant to sign off on the Memorandum of Agreement. Mr. Harrington asked if she was referring to this one property owner. Commissioner Hall thought it could be for this property owner and future property owners. Anyone who submits an application can have the option to sign off on the MOA. Mr. Harrington stated that the MOA was not a regulatory matter. It was a negotiated agreement between specific parties that was subsequently attached as a condition of approval. They were continuing to recommend that it either gets extended or reproached. Mr. Harrington remarked that someone moving a lot line a couple of feet is entitled to apply for that request under the LMC provisions in effect at the time of the application. Mr. Harrington recommended that the Planning Commission not extend it; however, they do have the purview to attach conditions of approval. If the Commissioners believe a condition is material to this application of moving a lot line and that the applicant needs to comply with the Agreement, they could make that Finding and attach it to their recommendation to the City Council. However, Mr. Harrington wanted it very clear that he believed doing so would be a mistake.

Commissioner Hall clarified that she was trying to find a creative solution that would not hold up the developer, and at the same time uphold the requirements for preserving historic sites. Mr. Harrington cautioned the Planning Commission against holding up one individual property owner on an administrative condominium lot line adjustment. He asked them to recall Jody's Burnett's advice in terms of how this should be approached. Mr. Harrington did not believe they were still kicking the can.

Commissioner Hall told Mr. King that the Commissioners did not want to deny this application; however, they wanted additional information. She was hearing that Mr. King did not want a continuance and she asked if there was another solution to reach some type of agreement to move forward.

Director Erickson agreed with Mr. Harrington. This item was a recommendation to the City Council. It was not an action. If the Planning Commission wanted to forward a positive or negative recommendation to the City Council and have the City Council review the status of a historic preservation plan, that would be acceptable.

Mr. King agreed with Chair Phillips that four weeks could turn into four months relative to the report. Director Erickson explained that the City Council needs to approve the Memorandum of Agreement. The MOA is a document that is a separate negotiation from the Development Agreement. Therefore, trying to enforce the Memorandum of Agreement and at the same time trying to enforce the Development Agreement are two separate actions. If the Planning Commission chooses to move forward, Director Erickson suggested that they either forward a positive or negative recommendation to

the City Council because the City Council needs to approve the Memorandum of Agreement and any modifications to Technical Reports #5 and #6. Director Erickson remarked that as members of the Empire Pass Master Owners Association, this applicant will be contributing to the 1% fund in perpetuity, in accordance with the Development Agreement.

Mr. King stated that if the Planning Commission was not ready or willing to forward a positive recommendation, he preferred that they forward a negative recommendation and let the City Council make the decision. He did not want a Continuation based on the discussion this evening.

Commissioner Hall asked if Friends of Flagstaff was a party to the Memorandum of Understanding. Mr. King answered no. He explained that Friends of Flagstaff is a separate developer that purchased property from the original developer. He stated that Friends of Flagstaff initially had 18 properties but combined 17 and 18 so there was a total of 17. He believed they still had five properties out of the original 17. He clarified that like Storied Development, East-West partners, or many other developers, Friends of Flagstaff did not sign the original agreement. They purchased property from the developer who did sign that agreement.

Mr. King stated that the buyer would like this plat approval to proceed with their architectural plans. If this gets delayed until the first of the year, they would like to be able to submit plans and have all the approvals so they can build in the Spring. For that reason, he would like a recommendation forwarded to the City Council as opposed to a continuance.

Commissioner Thimm wanted to know who would execute the MOA following the inspection of all the sites. Director Erickson stated that the Technical Reports and the modification to the MOA would come to the Planning Commission and possibly the HPB. Mr. Harrington stated that the historic agreement between REDUS and Storied Development calls for that as an action item. A paragraph in the agreement specifies an approval process. He recalled that it was the Planning Director and the Master HOA.

Commissioner Thimm understood that when the report is completed it becomes part of an MOA that gets put into place. Mr. Harrington believed the report would go to the City Council at the same time as the actual Agreement. It was originally anticipated that the MOA would be signed by now and the report would be a follow-up item. He thought it was likely to come to the Planning Commission and then go to the City Council. Mr. Harrington clarified that other than the HOA there would be no other signatories beyond the parties that are signing the other agreement.

Mr. King did not think it was right to make an example of this one small application. Commissioner Hall stated that the Planning Commission was not trying to punish or make an example. They were trying to understand and get information on something that was just now coming to fruition. Mr. King was curious as to why so much has been built already and why this just now became an issue.

Commissioner Van Dine stated that she fully supports preserving historic sites. However, she still did not believe this was the right application to hold up. Chair Phillips thought the Planning Commission needed to decide what they wanted to do before they could hold anyone else accountable. Commissioner Van Dine agreed with Mr. King that larger developments and other applications have been approved. She suggested that the requirement may have been ignored with those applications because the Museum or the Historic Board were not at the public hearings. If they had not attended this evening and brought it to their attention, the Planning Commission would probably have approved this application without question. Commissioner Van Dine agreed that kicking it down the road was the right thing to do, but she did not believe this application warranted a negative recommendation to the City Council.

Commissioner Hall stated that this Planning Commission and previous Planning Commissions may have made mistakes, but that was not a reason to continue making the same mistake.

Commissioner Suesser questioned why the Staff report did contain a Staff analysis on whether or not the application complies with the Flagstaff Agreement. She understood that no one knows how it applies to this particular landowner, but she thought it was interesting that it was referenced in the Conditions of Approval but there was no analysis on compliance, and the Agreement was not mentioned in the Staff report at all.

Planner Ananth stated that her Staff report is due more than two weeks before the meeting. This issue was raised for the first time two weeks ago with the Twisted Branch application, and she did not have the opportunity to write something on this subject for the Staff report.

Planner Ananth remarked that the Planning Department hears the Museum's concerns and they are very sympathetic that these mine structures were not given the attention they are due under the Development Agreement. If she had been the Planner in the last two decades, she would have stood with the Museum and fought for the preservation of these structures. However, in fairness, Planner Ananth was not sure that holding up a lot line adjustment for a homeowner was the right way to address this situation because Friends of Flagstaff is a member of the Empire Pass Master Owners

Association, who is a signatory on the MOA, and will contribute to the preservation going forward. Planner Ananth felt that indirectly this homeowner was joining an association that is contributing towards preservation. Whether it is enough was debatable, but the Planning Department would argue for moving the lot line adjustment forward.

Commissioner Kenworthy asked if Planner Ananth would consider adding a condition of approval based on what was said this evening; and if so, how the condition would be drafted to address this issue. Director Erickson was not sure if anyone knew what "this" is at this point. He thought there was considerable reaction to the public with good reason, as well as commentary as to compliance with the Flagstaff Development Agreement and its effect on property owners. He was unsure how Planner Ananth would write a condition of approval to accomplish X without knowing what X is. Director Erickson emphasized that a preservation plan was in place in Technical Reports #5 and #6. The report currently being done is an assessment of how everything in the original 2001 document were accomplished and by whom, and the cost to re-accomplish what was not completed under the terms of the Flagstaff Development Agreement and the Technical Report.

Director Erickson reiterated that if the Planning Commission was not comfortable forwarding a positive recommendation, they could forward a negative recommendation to the City Council based on the Finding that it does not comply with the Development Agreement for historic preservation; and direct the Staff to provide additional information and analysis for the City Council. Another option would be to direct the Staff to provide additional information and to give all the Departments the opportunity to respond to their question.

MOTION: Commissioner Hall moved to forward a negative recommendation to the City Council, based on the fact that there was no analysis as to whether or not the application complies with the Flagstaff Development Agreement and Technical Reports #5 and #6. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed 4-1. Commissioner Van Dine voted against the motion.

VIII.C. Annexation Policy Plan and Land Management Code Amendments - The Planning Commission will Hold a Public Hearing to Consider Amendments to the Annexation Policy Plan, Codified in the Land Management Code Title 15, Chapter 8, to Modify the Annexation Expansion Area, a Map that Highlights Areas the City May Consider Annexing in the Future, to include (1) the Northeastern Portion of the Round Valley Area, (2) the Southeast Quadrant of the Quinn's Junction Intersection (HWY 40 and SR 248) to the

Summit County Border, and (3) Bonanza Flat in Unincorporated Wasatch County. (Application GI-19-00416; PL-19-04300)

Director Erickson stated that this item was an opportunity for the affected entities in the Annexation Policy Plan to provide comment. The Planning Department had received no comments to date.

Commissioner Hall was surprised that there had been no public comment. Director Erickson clarified that there had been public comment; however, in addition to the public, this was an opportunity for the Affected Entities to comment.

Planner Rebecca Ward stated that this item was the public hearing for the Annexation Policy Plan that was discussed on August 28th. This would modify the expansion areas so the City could potentially bring in City-owned properties. The City owns the Round Valley, Clark Ranch, and Bonanza Flat parcels that are currently outside of the City boundary and the Annexation Expansion area. It also included the development restricted acreage in the southeast quadrant of Quinn's Junction.

Planner Ward noted that on August 28th, the proposed area had the Round Valley, Quinn's Junction, and Bonanza Flat area. On August 28th the Planning Department received a written request from the Girl Scouts of Utah to bring in the Camp Cloud Rim property, which is approximately 246 acres south of Bonanza Flat. The property is under deed restriction as open space and campground. Planner Ward clarified that the request was not to be annexed. They would like to be included in the expansion area in the event they would want to be annexed into the City boundary in the future. The property is located in Wasatch County and the Wasatch County Council would need to pass a resolution to approve the annexation if it was ever requested.

Planner Ward indicated a strange boundary in Bonanza Flat due to the Grace Mine Claim. She noted that the Annexation Expansion Area was amended to include the Girl Scout Camp and the Mine Claim to even out the southern end of the boundary.

The Staff recommended that the Planning Commission conduct a public hearing, make any modifications that the Planning Commission considers appropriate, and forward a positive recommendation to the City Council for consideration the following evening.

Planner Ward clarified that the boundary had changed to include the Grace Claim and the Girl Scouts of Utah property; and the attached Policy Plan was also amended to address those changes.

Commissioner Kenworthy understood that the Girl Scouts had submitted a last-minute request to be included; however, annexing that property would require permission from Wasatch County. He asked if anyone had done a cost analysis for the additional acreage. Since they would be serving the Bonanza Flat area, he assumed the cost would be minimal. Planner Ward replied that the cost analysis would be done at the time of annexation. The analysis that was done on the Policy Plan showed an increase in police services, and possibly the Park City Fire District. Infrastructure and other issues would be addressed at the time of annexation. Planner Ward stated that with the deed restrictions currently on the property, it is a rustic camp facility and would not require much in utilities.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

MOTION: Commissioner Suesser moved to forward a POSITIVE recommendation to the City Council to Adopt the Annexation Policy Plan and Land Management Code 15-Annexation Amendment, attached as Exhibit A and B in the Staff report. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

VIII.D. 901 Woodside Avenue –Conditional Use Permit – The Applicant is Proposing the Construction of a Private Driveway Within a Platted, Un-Built City Street. Item Continued from August 14, 2019 Planning Commission meeting. (Application PL-19-04152)

Chair Phillips recused himself and left the room. Vice-Chair Suesser assumed the Chair.

Director Erickson noted that this item was being continued; however, it was noticed for public hearing.

Vice-Chair Suesser opened the public hearing.

There were no comments.

Vice-Chair Suesser closed the public hearing.

MOTION: Commissioner Hall moved to CONTINUE the 901 Woodside Avenue CUP to September 25, 2019. Commissioner Van Dine seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Phillips returned and assumed the Chair.

VIII.E. 839 Woodside Avenue – Conditional Use Permit – The Applicant is Requesting to Locate a Basement Addition Directly Beneath the Landmark Historic Structure that Encroaches into the Side Setback Area.
(Application PL-19-04274)

Planner Hannah Tyler reviewed this item in the absence of Laura Kuhrmeyer, the project planner.

Planner Tyler reported that 839 Woodside Avenue is a Landmark structure. The applicant was requesting a setback reduction to accommodate an addition to a historic structure. She noted that this was not an uncommon request in the Historic Districts. In this particular case, there was a storage area beneath the area in question.

The Staff was recommending approval because it was simply allowing for a new basement addition to be within the setback of an existing structure. She understood that the existing structure was being slightly expanded to become taller.

Jon DeGray, the project architect, was present to answer questions.

Commissioner Suesser asked for clarification on what was being expanded. Planner Tyler explained that a crawl space is traditionally shorter than a current basement. Mr. DeGray pointed out that the existing space is actually a small garage and it is taller than a normal crawl space. He noted that the footprint would be exactly the same and they were not expanding the non-conformity. Mr. DeGray stated that the garage is a substandard space in terms of height. It is currently 7' tall and they were proposing to increase it to an 8-foot tall ceiling space.

Chair Phillips asked if the house was being raised. Mr. DeGray replied that the finished elevation of the home was being raised within the 2' allowed by the Design Guidelines.

Planner Tyler remarked that the added height was the only reason this was before the Planning Commission. If the space had remained at 7 feet, they would not be reviewing this application. Planner Tyler noted that this was reviewed by the HPB in August, at which time the Board approved the project.

Commissioner Suesser understood that the house encroached into its own setback property area. Planner Tyler answered yes. The house sits in its originally constructed location and it will not move at all. This action would memorialize that a new space below the structure technically sits within the setback. Commissioner Suesser questioned whether it encroaches into the Ninth Street right-of-way. Planner Tyler was not aware that it did. Mr. DeGray confirmed that it did not encroach into the right-of-way. He noted that the site plan on page 169 of the Staff report showed the location of the property line.

Commissioner Suesser asked about the hot tub at the rear of the property and the deck that extends beyond the property line. Mr. DeGray stated that the rear patio and hot tub area are within the rear yard setback. The historic shed is being maintained.

Director Erickson believed the setback encroachments by the hot tub and deck were consistent with the LMC. Planner Tyler stated that those were compliant due to setback exceptions. She clarified that the hot tub and deck did not encroach beyond the property line.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

Commissioner Suesser asked for further clarification on the basement addition. She understood that it was within the building footprint, but it was a basement addition that would stay beneath the historic home and raise the home 2-feet. Planner Tyler replied that she was correct. Commissioner Suesser asked if the HPB had any concerns about lifting the historic house. She thought the City was trying to avoid lifting historic structures. Planner Tyler replied that the HPB had no issues or concerns. She pointed out that this structure already had a garage. Planner Tyler explained that houses are allowed to be lifted up to 2' whether Landmark or Significant. In this particular case, there is an existing condition in the basement; therefore, the Staff, the HPB, and the Design Review Team did not find that this change increased the degree of non-conforming

Planner Caitlyn Barhorst stated that this was one of the Landmark structures that had a garage historically beneath the porch. It was consistent with the Design Guidelines and there were no issues with the floor level change to accommodate the new basement addition.

MOTION: Commissioner Thimm moved to APPROVE the Conditional Use Permit for 839 Woodside Avenue, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Staff report. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 839 Woodside Avenue

1. The subject property is located at 839 Woodside Avenue, in the Historic Residential (HR-1) Zoning District, and is listed as Landmark Historic Site on the Historic Sites Inventory (HSI).
2. The applicant is proposing to lift the Historic structure, remove the existing garage foundation, and create a new full basement foundation, a portion of which encroaches into the Side Setback.
3. The total Footprint of the existing Structure, as measured, is 749 square feet for the main dwelling plus an additional 120 square feet for an Accessory Structure which is also Historic. The total Floor Area of the proposed basement is 1,328 square feet, a portion of which is beneath the proposed addition in the rear. However, the two areas under review tonight are located on the north side of the Historic Structure and consist of eighty-three (83) square feet of building footprint as well as twenty-six (26) square feet of porch area.
4. Per LMC 15-2.2-4(A), the Planning Commission may grant an exception to the Building Setback for additions to Historic Buildings consistent with the Historic District Design Guidelines.
5. Per LMC 15-1-10(E), the proposal is subject to review according to the Conditional Use Permit Criteria.
6. A complete application for a Conditional Use Permit for an Addition to a Historic Structure located within the Building Setback was received on July 18, 2019.
7. The Historic Structure at 839 Woodside Avenue is a Single-Family Dwelling. A Single-Family Dwelling is an Allowed Use in the HR-1 Zoning District.
8. A Plat Amendment for 839 Woodside Avenue was approved by City Council on April 4, 2019 (Ordinance 2019-16) and recorded on July 19, 2019 (Entry No. 1114405).
9. The proposal complies with LMC 15-2.2-4(A)(1) as the Planning Commission has reviewed and approved a Conditional Use Permit for the proposed Use.
10. There are no unmitigated impacts to LMC 15-2.2-4(A)(2) as the proposal includes removing the existing basement level garage and replacing with a new foundation that will allow for a full basement. The majority of the proposed work is either replacing in kind or is interior/below grade and not visible from the exterior of the Historic Structure. The proposed design is compatible with the Historic Structure.

There are no proposed changes to the existing driveway location or width.

11. The proposal complies with LMC 15-2.2-4(A)(3) as the addition has been reviewed for compliance with the Design Guidelines and LMC through the HDDR Process.

12. The proposal complies with LMC 15-2.2-4(A)(4) as conditioned as the addition will be reviewed for compliance with the Building and Fire Codes through the Building Permit once submitted.

13. The proposal complies with LMC 15-2.2-4(A)(5) as the addition has been reviewed for compliance with the Design Guidelines for Historic Districts and Historic Sites through the HDDR process.

14. There are no unmitigated impacts to LMC 15-1-10(E)(1) size and location of the site, as the Lot is 3,688 square feet (0.08 acres). The site is located on Woodside Avenue (east property boundary). This is a Historic Single-Family Dwelling, with approximately eighty-three (83) square feet of the Structure and twenty-six (26) square feet of porch encroaching into the north Side Setback. Per LMC 15-2.2-4, Historic Structures that do not comply with Building Setbacks are considered valid Complying Structures. The addition to basement that is subject to this CUP consists of eighty-three (83) square feet of a basement level garage as well as twenty-six (26) square feet of porch. Both the garage and the porch are to be reconstructed to essentially the same design as existing. No change in Use is proposed.

15. There are no unmitigated impacts to LMC 15-1-10(E)(2) traffic considerations including capacity of the existing Streets in the Area, as there is no change in Use that would generate additional vehicular trips beyond the current and Historic SingleFamily use.

16. There are no unmitigated impacts to 15-1-10(E)(3) utility capacity, as the proposal will have no impact on the current utility equipment and capacity needs.

17. There are no unmitigated impacts to LMC 15-1-10(E)(4) emergency vehicle access as the proposal involves reconstructing the garage and porch to match the existing garage and porch. There is no impact to the existing emergency vehicle access.

18. There are no unmitigated impacts to LMC 15-1-10(E)(5) location and amount of off street parking, as per LMC 15-2.2-4, Existing Historic Structures that do not comply with Off-Street parking are valid Non-Complying Structures. The proposed basement addition does not create a Lockout Unit or an Accessory Apartment; therefore, no additional parking is required.

19. LMC 15-1-10(E)(6) internal vehicular and pedestrian circulation system, is not applicable as there is no impact to the existing internal and pedestrian circulation system.

20. There are no unmitigated impacts to LMC 15-1-10(E)(7) fencing, Screening and landscaping to separate the Use from adjoining Uses, as the proposal involves reconstructing the garage and porch to match the existing garage and porch. The proposal has been conditioned so that any disturbed landscaping shall be brought back to existing conditions or improved. In addition, there are no commercial Uses

that require separation from Residential Uses.

21. There are no unmitigated impacts to LMC 15-1-10(E)(8) building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots, as the proposal involves reconstructing the garage and porch to match the existing garage and porch. The basement addition area that is located within the setback is beneath the north end of the existing structure. No increase in Building Footprint will be achieved through the addition of the subject basement area, though the addition will increase the overall Footprint. As a result, there is no visual impact to the perceived mass from the Street because the existing garage and porch will be replaced in kind. On the North Side of the property, the distance between the Historic Structure and the North Property Line ranges from three feet and five inches (3'5") to five feet and three inches (5'3").

22. There are no unmitigated impacts to LMC 15-1-10(E)(9) usable Open Space, as the subject area of the basement and porch are replacing the existing basement and porch and have little to no impact on the exterior of the Historic Structure or on the useable outdoor yard area.

23. LMC 15-1-10(E)(10) signs and lighting, as there are no signs or lighting proposed on site at this time. The proposal will be conditioned that all exterior lighting shall be down directed and shielded.

24. There are no unmitigated impacts to LMC 15-1-10(E)(11) physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing, as there is no impact to the Compatibility with surrounding structures or perceived mass from the Street because the proposal involves reconstructing the existing garage and existing porch. Physical design is compatible with adjacent houses in mass, scale, style, design and architectural detailing.

25. LMC 15-1-10(E)(12) noise, vibration, odors, steam, or other mechanical factors that might affect people and property Off-site, is not applicable as there are no changes that will result in additional noise, vibration, odors, steam, or other mechanical factors

26. LMC 15-1-10(E)(13) control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas, is not applicable as there are no changes that will impact the control of delivery and service vehicles, loading and unloading zones, or Screening of trash pickup Areas.

27. LMC 15-1-10(E)(14) Expected Ownership and management of the project as primary residences, Condominiums, time interval ownership, nightly rental, or commercial tenancies, how the form of ownership affects taxing entities, is not applicable as this is a Single-Family Dwelling.

28. LMC 15-1-10(E)(15) Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site, as the proposed reconstruction of the garage and porch area will not impact the exterior conditions of the structure or the topography of the

Site.

29. There are no unmitigated impacts to LMC 15-1-10(E)(16) reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding, as this proposal has been reviewed for consistency with the Goals and Objectives of the Park City General Plan. The General Plan establishes several goals and objectives specific to Historic Preservation, including, but not limited to Goal 15, Objective 15A and Objective 15B.

30. On August 28, 2019, the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published on the Utah Public Notice Website and Park Record on August 28, 2019 according to requirements of the Land Management Code.

31. All Findings in the Analysis section of this report are incorporated herein.

Conclusions of Law – 839 Woodside Avenue

1. The application complies with all requirements of the LMC and satisfies all Conditional Use Permit review criteria as established by the LMC 15-1-10 and 15-2.2-4(A) Existing Historic Structures Exceptions.
2. The Use, as conditioned, is Compatible with surrounding Structures in Use, scale, mass and circulation; and
3. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval – 839 Woodside Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards, to include driveway and Parking Area layout, is a condition precedent to building permit issuance. An approved shoring plan is required prior to excavation.
4. This approval will expire on September 11, 2020, if a complete building permit submittal has not been received, unless a written request for an extension is received and approved by the Planning Director prior to the date of expiration.
5. Modified 13-D fire sprinkler system is required for any new construction/addition.
6. All above grade utility facilities shall be located on the property and properly screened.
7. All exterior lighting shall be down directed and shielded.
8. All Conditions of Approval from the August 21, 2019 Historic Preservation Board Action Letter shall continue to apply.

VIII.F 1271 Lowell Avenue & 1217 Rothwell Road – Plat Amendment – The Applicant is Proposing to Amend the Kings Crown Resubdivision Plat, Affecting Lots 2, 30, and 32. The Proposal Includes Splitting Lot 2 into Two Lots and Allocating a Portion of Lot 32 to Lot 30.
(Application PL-19-04305)

Planner Tyler stated that she was presenting the next two applications in the absence of Planner Kuhrmeyer, the project planner.

Planner Tyler reviewed the application for the subdivision plat. She noted that this proposal would impact Lots 30, 32, and 2. She started with Lot 2 and noted that they were splitting the lots to allow each condominium to be sold individually on their own lot. This proposal would change one lot into two lots. There would be no further changes in density or building size. There would be no additional impacts other than to segregate each building to be on its own lot.

Planner Tyler stated that Lots 30 and 32 was the other piece to this subdivision. Both lots currently exist where the Ski Amenity Building will be located. There is also an open space parcel. The request is to allocate a portion of the open space lot 32, to Lot 30. Planner Tyler understood that these lots were previously platted and the building was crossing lot lines. This application would clean up the lots to reflect the buildings that the Planning Commission previously approved. She understood that over time the Ski Amenity Building has become smaller.

Chimso Onwuegbu, the project architect, clarified that the Ski Amenity Building actually remains the same. The stairs were crossing lot lines and there were other oddities.

Rory Murphy clarified that the area coming into the open space was always intended to be there; however, there were setback issues and whether or not that was appropriate without it being part of the Lot. Mr. Onwuegbu stated that one of the conditions from the beginning was that they were allowed to have ski access in that open space. The applicant and the Staff thought it was cleaner to actually move that portion into the actual buildable lot.

Commissioner Hall wanted to know what was done wrong the first time that it now requires a lot line adjustment. Mr. Onwuegbu replied that nothing was done wrong. The lot line adjustment just makes everything easier. He noted that the old lot had a path that went through it to public access stairs, which was part of the original request.

Director Erickson believed these changes result in a better design that is more consistent with the Land Management Code. He noted that the Master Plan showed the building, which was approved. They attempted to combine certain subdivision acts; however, as the design moved forward and they wanted to improve the design and make it so the stairway did not cross the property lines, it required amending the plat.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council for the requested subdivision.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation to the City Council for the 1271 Lowell Avenue Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the draft ordinance. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1271 Lowell Avenue

1. The site is located at 1271 Lowell Avenue and 1217 Rothwell Road.
2. The proposed Plat Amendment affects Lots 2, 30, and 32 of the Kings Crown Resubdivision.
3. The site is located within the Recreation Commercial (RC) District and the Recreation and Open Space (ROS) District.
4. On January 10, 2018 the Park City Planning Commission approved the Kings Crown Master Planned Development (MPD) and a Conditional Use Permit for Multi-Unit Dwellings throughout the development for market rate and affordable housing units.
5. On February 1, 2018 the Park City Council approved the Kings Crown ReSubdivision Plat, per Ordinance No. 2018-05.
6. On May 16, 2018 Summit County recorded the Kings Crown Re-Subdivision Plat – entry no. 1091847.
7. On June 13, 2018 the Park City Planning Commission ratified the Development Agreement required by the approved Master Planned Development.
8. On June 14, 2018 Summit County recorded the Development Agreement -entry

no. 01093392.

9. On August 30, 2018 the Park City Housing Authority approved the Kings Crown Affordable Housing Mitigation Plan.

10. On June 17, 2019 the Park City Planning Department received a complete Condominium Plat for the Kings Crown Townhome Condominiums.

11. On May 22, 2019 the Planning Commission amended the Master Planned Development (MPD) and Conditional Use Permit (CUP).

12. The proposed Kings Crown Resubdivision First Amended Plat affects Lots 2, 30, and 32.

13. The proposed changes do not change the original approved Density or Unit Equivalent calculations.

14. The Plat Amendment proposes to split Lot 2 into two (2) lots (Lot 2A and Lot 2B) to allow for phasing of the Condominiums Buildings (B and C, then D).

15. The Plat Amendment also proposes to reallocate a portion of Lot 32 (Platted Open Space) to Lot 30 (Townhome Condominium Site).

16. The Applicant is proposing to reallocate 1,181.43 square feet of Lot 32 to Lot 30. This change is proposed to allow for the proposed Ski Amenity building to be located entirely on Lot 30, which will help resolve Setback requirements for the Accessory Structure.

17. It has been discovered that the actual square footage of Lot 32 was incorrectly Platted on the Kings Crown Resubdivision, recorded May 16, 2018. While the recorded Plat states that Lot 32 is 484,004.47 square feet, the actual square footage of the Lot is currently 482,369 square feet.

18. The total contiguous Open Space percentage in the original proposal was 74.6%. With the corrected square footage of Lot 32, the original proposal included 73.87% contiguous Platted Open Space.

19. As proposed, Lot 32 will be 481,187.57 square feet of platted Open Space, which brings the total percentage to 73.69%.

20. The applicant has indicated that they will not seek to build (sell) duplex lots on applicable lots. The note on the Plat indicating this shall remain.

21. Staff finds good cause for this Plat Amendment as it will allow the Condominium buildings to be phased and it will resolve the issue of a building crossing property lines for the proposed Ski Amenity Building. Additionally, it reflects compliance with the amended Master Plan Development and Conditional Use Permit, and amended Affordable Housing Mitigation Plan.

22. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 1271 Lowell Avenue

1. There is good cause for this Plat Amendment.

2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Condominium Plats.
3. Neither the public nor any person will be materially injured by the proposed Condominium Plat.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval – 1271 Lowell Avenue

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat and CCRs for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant shall record the Plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The proposed final plat shall in compliance with criteria outlined under the LMC § 15-7.3 Requirements for Improvements, Reservations, and Design which includes the following, as applicable: general subdivision requirements, general lot design requirements, road requirements and design, drainage and storm sewers, water facilities, sewer facilities, sidewalks, hiking trails, bike paths, and horse trails, public uses, preservation of natural features and amenities. All plats are reviewed by the City Engineer for these and other applicable standards.
4. The project is over 1.0 acres and will be required to meet the requirements of Park City's municipal separate storm sewer system (MS4) storm-water program
5. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final Mylar prior to recordation
6. A plat note shall state that all conditions of approval of the amended Master Planned Development, Conditional Use Permit, Kings Crown Re-Subdivision First Amended Plat, and amended Housing Mitigation Plan shall continue to apply.

VIII.G. 1217 Rothwell Road – Plat Amendment – The Applicant is Proposing to Create a Condominium Plat, Consisting of Seven (7) units, Within the Kings Crown Master Planned Development. (Application PL-19-04240)

Planner Tyler stated that the next item was a condominium plat that would memorialize each unit so they can be sold separately once they are built. It is a market rate condominium building.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

Commissioner Hall wanted to know why the condominium plat is not incorporated into a previous approval. Planner Tyler explained that once recorded, the shape of the building remains that way forever. The developers prefer to wait in case any changes are necessary.

MOTION: Commissioner Van Dine moved to forward a POSITIVE recommendation to the City Council on the condominium plat for 1217 Rothwell Road, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1217 Rothwell Road

1. The site is located at 1217 Rothwell Road, Lot 30 of the Kings Crown ReSubdivision.
2. The site is located within the Recreation Commercial (RC) District.
3. On January 10, 2018 the Park City Planning Commission approved the Kings Crown Master Planned Development (MPD) and a Conditional Use Permit for Multi-Unit Dwellings throughout the development for market rate and affordable housing units.
4. On February 1, 2018 the Park City Council approved the Kings Crown ReSubdivision Plat, per Ordinance No. 2018-05.
5. On June 13, 2018 the Park City Planning Commission ratified the Development Agreement required by the approved Master Planned Development.
6. On June 14, 2018 Summit County recorded the Development Agreement -entry no. 01093392.
7. On May 16, 2018 Summit County recorded the Kings Crown Re-Subdivision Plat – entry no. 1091847.
8. On August 30, 2018 the Park City Housing Authority approved the Kings Crown Affordable Housing Mitigation Plan.
9. On June 17, 2019 the Park City Planning Department received a complete Condominium Plat for the Kings Crown Townhome Condominiums.
10. On May 22, 2019 the Planning Commission amended the MPD and CUP.
11. On September 11, 2019, the Planning Commission reviewed the Kings Crown Resubdivision First Amended Plat.

12. The City Council is scheduled to review the Kings Crown Resubdivision First Amended Plat on October 10, 2019.
13. The proposed Condominium Plat memorializes common, limited common, and private areas that would that allows the units to be sold individually.
14. The proposed Condominium Plat consists of seven (7) market rate units within the Kings Crown Master Planned Development, to be platted as Kings Crown Townhome Condominiums.
15. The unit boundaries of each private unit would be set forth on the recorded plat.
16. The size of the private units ranges from 4,037 – 4,138 square feet.
17. Common areas include exterior walls and internal bearing walls/columns, footing and foundation, roof, etc.
18. Limited common areas include several exterior decks as well as elevators for each unit.
19. The recordation of this Condominium Plat would allow the applicant to sell each unit individually.
20. There is Good Cause for this Condominium Plat as it reflects compliance with the amended Master Plan Development and Conditional Use Permit, approved ReSubdivision Plat, and amended Affordable Housing Mitigation Plan.

Conclusions of Law – 2017 Rothwell Road

1. There is good cause for this Condominium Plat.
2. The Condominium Plat is consistent with the Park City Land Management Code and applicable State law regarding Condominium Plats.
3. Neither the public nor any person will be materially injured by the proposed Condominium Plat.
4. Approval of the Condominium Plat, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval – 1217 Rothwell Road

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat and CCRs for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant shall record the Plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The Kings Crown Townhome Condominiums Plat shall not be recorded until the Kings Crown Resubdivision First Amended Plat is approved and recorded, correcting the property lines between Lot 30 and Lot 32.

4. A plat note shall state that all conditions of approval of the amended Master Planned Development, Conditional Use Permit, Kings Crown Re-Subdivision First Amended Plat, and amended Housing Mitigation Plan shall continue to apply.

VIII.H. 1312, 1324 & 1336 Aerie Drive – Plat Amendment – Aerie Holdings LLC, is Proposing to Combine Lots 9 and 10 by Removing the Internal Lot Line, to Demolish the Existing House on Lot 10 and to Construct a New House on the New Combined Lot. Lot 11, Which is Under the Same Ownership, Will Remain Vacant With No Plans For Development At this Time.
(Application PL-19-04297)

Planner Tyler reported that the applicant had requested a continuance on the Aerie Drive Subdivision to a date uncertain. The applicant wanted the opportunity to slightly change the proposal. That was the only reason for the request to continue.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

MOTION: Commissioner Hall moved to CONTINUE the Aerie Phase I to a date uncertain. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission Meeting adjourned at 9:25 p.m.

Approved by Planning Commission: _____