



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
July 26, 2023**

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

EX OFFICIO: Rebecca Ward, Assistant Planning Director; Spencer Cawley, City Planner; Jaron Ehlers, City Planner; Mark Harrington, City Attorney

1. CALL TO ORDER

Chair Laura Suesser called the meeting to order at approximately 5:30 p.m. She announced that all Commissioners were present, and noted that Commissioner Sarah Hall and Commissioner Henry Sigg were appearing remotely. She stated that Commissioner Rick Shand was expected to join the meeting shortly.

Chair Suesser reported that the Commission just returned from a site visit and that the meeting would proceed, as there was a quorum.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from June 14, 2023.

MOTION: Commissioner Bill Johnson moved to APPROVE the Planning Commission Meeting Minutes from June 14, 2023. Commissioner Christin Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Rick Shand abstained from the vote.

B. Consideration to Approve the Planning Commission Meeting Minutes from June 21, 2023.

Commissioner Johnson stated that since he was not present for this meeting, he would recuse himself from the vote.

MOTION: Commissioner Van Dine moved to APPROVE the Planning Commission Meeting Minutes from June 21, 2023. Commissioner John Frontero seconded the motion.

VOTE: The motion passed with unanimously with one abstention. Commissioner Johnson abstained from the vote.

3. PUBLIC COMMUNICATIONS

Laine Fuller stated that she was appearing for her husband, Dell Fuller. Their zip code is 84060. She explained that as adjoining property owners to Lot 2 in the Willow Ranch Subdivision, they collectively had critical concerns about the tree planting and disturbances in the open space behind their homes. There was a documented precedent that validated their concerns regarding the disturbance of the wetlands and wildlife corridor within the Sensitive Land Overlay on Lot 2 in the Willow Ranch Subdivision.

Speaker Fuller expressed that Park City has a long documented history of valuing and protecting open space, view corridors, and wildlife. Those concerns were applied to the creation of the Willow Ranch Master Planned Development in 1992 and 1993. At that time, the Army Corps of Engineers set forth limitations and restrictions for development in these designated wetlands. At the same time, Speaker Fuller recalled that Park City Municipal took over stewardship of these wetlands with the creation of the Sensitive Land Overlay Ordinance to include all of Willow Ranch. The City declared that it wished “to work with the developers to obtain open space of high visual and environmental value for the citizenry.”

Speaker Fuller stated that Section (B)(1) of the Sensitive Land Overlay Ordinance in the Land Management Code (“LMC”), required a visual assessment of the property from vantage points designated by the Planning Department depicting conditions before and after the proposed development, including the proposed location, size, design, landscaping and other visual features of the project. She reported that on May 26, 1999, during a Willow Ranch Plat Amendment for Lot 2, Planning Staff submitted the following statement to City Council:

‘To address the Commission’s concerns regarding impacts on the neighborhood, Staff visited the site to determine whether any mountain views from the surrounding neighborhoods would be obstructed by the proposed amendment. Given that the homes to the north are more than 400 feet from the proposed Building Pad and that they are higher on the hill than Lot 2, and that the view corridor for these homes looks across four 6 – 8 acre Lots plus a 10.5-acre open parcel, Staff determined that the existing view of the mountains from the houses to the north will not be diminished as a result of the Plat Amendment.’

Speaker Fuller asked why there had not been enforcement of these Ordinances regarding the visual disturbances on Lot 2 to the homes to the east, which is the Park Meadows Subdivision. She stressed that they were greatly impacted by the trees and the disturbances that have occurred on Lot 2. She referenced the photographs and charts in the handout provided to the Commission, which she felt documented the truth and reality of these claims.

Michael Watts reported that he resides in zip code 84060. He is a long-time neighbor to Lot 2 in Willow Ranch. He submitted a letter to the Commission that detailed what he believed to be significant violations of the LMC, the Sensitive Land Overlay District, and the wetlands. He highlighted the following from his packet. Page 1 of his packet showed that the Army Corps of Engineers issued a nationwide permit, No. 26, to create Building Pads/Islands within the wetlands of Lot 2 in Willow Ranch. These areas defined the Area of Disturbance allowed on this Lot and were used to define the Limits of Disturbance (“LOD”) shown on the Plat. He noted that pages 2 and 3 showed the areas of Lot 2 on which work had been performed outside the defined Limits of Disturbance and within possible wetlands areas within the Sensitive Land Overlay District.

Speaker Watts stated that they could calculate the disturbed area outside of the 17,000 square foot Limit of Disturbance. He guessed that the prior and present disturbed areas were 3 to 4 times greater than the allowed 17,000 square feet, or approximately 68,000 square feet.

Speaker Watts urged the Commission to review the photographs that illustrated well drilling, plantings, and the plantings in the wetlands. He listed the claimed infractions as including drilling the well outside of the LOD, planting trees in the wetlands, building berms, creation of ponds and paths, trenching for irrigation, and plantings that would completely block the view corridors.

Speaker Watts commented that the original Master Planned Development ("MPD") approval document from 1993 was clear that view corridors, wetlands protection, and preservation of open space and undeveloped land was the main objective in allowing the development to proceed. He commented that working in the wetlands and outside the LOD was not in compliance with this objective.

Chair Suesser referenced the packet provided to the Commission and asked Speaker Watts to clarify the Aspen and pine trees that screen views, as set forth on pages 3 and 4. She noted these trees were planted in 2005 through 2006.

Speaker Watts stated that there had been a long history and mentioned the ponds and the features on the southern edge. He claimed that the new plantings from last year were more into the fields and represented in the photographs as highlighted in red on page 4.

Chair Suesser asked if in terms of challenging the activities of the current homeowner, it was the planting of the red trees. Speaker Watts stated that it was the combination of all things since all things were outside of the LOD. Whether it was done in 2005 or 2022, it was all outside the LOD and should have been reviewed in relation to the ordinance. He added that all of it was within wetlands designated by the Army Corps of Engineers. Chair Suesser asked if the Army Corps of Engineers ever filed a violation. Speaker Watts stated that it was the responsibility of the landowner to ask whether they had permission to do something.

Kate Nelli reported that she resides in 84060, and lives catty-corner to Lot 2. They learned from the Hall's landscaper on the day that work began that the Halls were planning to plant an apple orchard, increase the height of berms and plant large perimeter trees. She asked the Halls, through their landscaper, if they would reconsider the perimeter trees, as these trees would block all of their views. The Halls responded that they would move trees up to 6 inches in either direction, but their objective was to block the houses from their back Lot view. Speaker Nelli emphasized that this would be the Hall's back view, not the mountain direction view. She also noted that these trees would be large, so six inches was not going to make much of a difference. She referenced page 23 of the submission to the Commission which showed what the view would look like when the trees reach maturity.

Speaker Nelli expressed shock for a number of reasons. First, the owners would be willing to take away the mountain views of multiple houses because they did not like looking at houses in an in-town neighborhood like Park Meadows. Second, she stated it was well known that a sizable portion of that Lot was designated wetlands by the Army Corps of Engineers, and is an important wildlife corridor. She added that neighbors regularly share daily sightings of deer, moose, foxes, bobcats, sand hill cranes, owls, and more.

Speaker Nelli commented that when they raised this with the landscaper, the Halls, and “Alex” from the Planning Department, they were told that the Halls could do what they would like with the land. She stressed this was not true. She argued that the neighbors had gathered information from the Plat and past history information, which proved that there were several rules governing what could be done, as well as the proper actions necessary to make any changes on Lot 2. She reported that the Plat states that no landscaping may be done to block the view corridors of adjacent homes. This was a critical foundational piece at the inception of that Subdivision.

Additionally, Speaker Nelli averred that there was a precedent that the owners should have conducted a Sensitive Land Overlay Analysis, which she believed would have found that the drilling and landscaping would have detrimental effects on the natural state of the land and wetlands. She felt it was obvious from her Lot’s view, and drone pictures, how far the owners had gone beyond their land disturbance allowances.

Speaker Nelli reported that her husband met with Jerry Hall, they have called the Planning and Building Departments, sent letters, and attended meetings over the last year to try and resolve this issue. They asked City officials to investigate and enforce the rules, and no action had been taken to compel the Halls to comply with the LMC. She added that it was unclear why this was so, as they felt that once the appropriate people saw the evidence of illegal work, action would have been taken to enforce the rules. She expressed that it felt especially wrong that they say they are a City that values open space and wildlife, but there is a member of the Planning Commission who blatantly flouts the LMC governing those things on her property.

To remedy these infractions, Speaker Nelli requested the Halls remove the perimeter trees, and conduct a Sensitive Land Overlay Analysis. She added that the neighbors also requested assurances from the City that they would monitor this project to ensure that the Halls had received proper permits and inspections related to any additional building and landscaping. She stressed that this request was made particularly in light of the fact that they planned to use the newly drilled well to irrigate the property, which would require more land disturbances beyond which they had already exceeded.

Chair Suesser asked Speaker Nelli to orient the Commission on the images shown on page 4 of the packet and asked when the apple trees were planted. Speaker Nelli stated that work started on planting the apple trees last summer. Speaker Nelli also clarified that she was primarily concerned with the perimeter trees highlighted in red. She added that they are close to the fence line, and once they grow they would completely block the sun and the views. She noted that the Aspen were almost at maturity, and while they likely will not grow higher, they still blocked the neighbor’s views in 2005 and 2006. Chair Suesser also asked about the location of the well in relation to the information in the packet. An unidentified speaker highlighted the location of the well. Speaker Nelli noted the general location of the six apple trees. She also commented that they placed woodchips around the trees.

Stacey Sayers reported that she resides in 84060. She stated that she owns a property that adjoins Lot 2 in the Willow Ranch Subdivision. She expressed concern about several projects and activities occurring on Lot 2 and the surrounding area. Speaker Sayers focused on the obstruction to the view corridor and land disturbances on the wetlands. She stated that the newly planted trees on Lot 2 would obstruct her views. She indicated that she purchased her home in 2005, largely due to the views. The prior owner of the Hall residence planted Aspens and evergreens along the fence line. She reported that these trees now formed a wall and impacted

many of the neighbors' views. This view obstruction should never have occurred, and should not be repeated with the current tree planting on Lot 2, which would block views.

Speaker Sayers reached out to the Halls and personally asked that they not plant the trees. She stated this was to no avail. The original MPD approved in 1993 clearly stated that neighbors' view corridors would be protected. The 1999 Plat Amendment reinforced this objective. She requested that the newly planted trees be removed to comply with the approved MPD.

Speaker Sayers continued by stating that Willow Ranch Subdivision was located within the Sensitive Land Overlay District according to a City Council Staff Report in 1999. There have been many disturbances in the soil, including tree planting and the drilling of the well. She asked whether there was a professional analysis of the impact of these projects on the wetlands. She also asked if the permitting process protected Sensitive Lands.

Speaker Sayers requested a thorough review of all activities on Lot 2 in Willow Ranch, and the wetlands surrounding Lot 2 through a Sensitive Land Overlay Analysis, assuming it was never done. She also requested a determination of the total square footage of the disturbance. Speaker Sayers felt that a professional analysis would provide recommendations to protect the land and identify any violations. She stressed the importance of Lot 2 to local wildlife. Speaker Sayers argued that the entire space was a wildlife corridor. She commented that the growth of Park City had put pressure on wildlife. She listed the number of species that were seen on Lot 2 and stated that it had been a gift to experience the wildlife on this land. She added that the hidden refuge and passageway served them all, and she hoped they could just let it be.

Jim Hoffmeister read a statement on behalf of Frode Jensen, who resides at 2812 Holiday Ranch Loop, which is adjacent to the property:

'I join my neighbors, who live in clear site of the estate at 2750 Meadows Creek Drive, in objecting not only to the owners' plan to block our neighbors' clear views of the majestic Park City Ridgeline, which they have enjoyed for decades but also to the owners' plan to landscape the natural fields and the meadows and wetlands, which the City undertook to absolutely protect when the development of the Subdivision was approved in 1992.

This development project should never have been granted a Building Permit nearly two years ago. One of the owners, a lawyer, and a sitting Planning Commissioner since this project was conceived, should have known this, or else she doesn't know the requirements of our Land Management Code well enough to sit on the Planning Commission. The Planning Department should have known this too, since it has approved a project, which inexplicably violates the maximum residential square footage clearly set forth in the Plat. It ignores the express requirements for development of a Sensitive Lands area and has freely allowed for development of a sacrosanct wetland in our climate-challenged high country. These are in addition to numerous other problems. I would be complaining about this illegal development proposed by a sitting Planning Commissioner, of all people, even if it were the only development I knew of in town, which runs roughshod over our land use laws, but it's not.

There are numerous examples over the last few years of illegal development approved by the Planning Department. I, and others have tried to call these to the attention of the Mayor and the City Council with only limited success. Now, based on the adversarial approach the City has recently taken to objections to the Commissioner's project, it seems

the City doesn't agree that there is a problem. Many of us who live here disagree, and I hope that the City Council will closely examine our concerns.'

Bob Theobald went over the documents presented to the Commission by the previous speakers and those presented by him. He expressed his belief that there was sufficient evidence supporting probable cause necessary to begin an in-depth investigation into coincidental incompetence or complicit deception. He referenced the submission, acceptance, and processing of plat amendments in April 2021, a subsequent Building Permit in October 2021, and several other consequential events.

Speaker Theobald focused on a document he submitted that showed the Building Permit for the home on Lot 2 in 1999. He stated there should be no question about the size of the home, as the Building Permit lists it as 9,830 square feet. He argued there were months of deceit as to the size of the house. He offered that it was not disclosed as part of the 2021 Plat Amendment to get a flexible ratio between the barn square footage and the house square footage. The Planning Department and an attorney who is a sitting Planning Commissioner should have known this information.

Speaker Theobald stated there were three other places where the City could have obtained the information regarding the square footage and known that it exceeded 9,300 square feet as platted. No one did anything about it, and he expressed certainty that Commissioner Hall was aware of this information as she was paying taxes on 12,000 square feet. She also had the Building Permit and access to the Multiple Listing Service information. He referenced a drawing in his submission that was taken from the County Assessor's Office. He claimed that this drawing was sent to the County Tax Assessor, who calculated the square footage at 11,597 square feet. By subtracting the square footage of the garage, there would be 10,997 square feet.

Referencing this drawing, he highlighted the area marked "attic," which was shown above the garage. He averred that was the plan submitted by Commissioner Hall. He next referenced a page showing a plan submitted by John Thompson in 1999, which showed there was not an attic over the garage; rather, there was a bathroom, a closet, a vanity, a bed, a fireplace, French Doors, a balcony, and a deck. He stressed that was in the home, not what Commissioner Hall supplied for review.

Speaker Theobald argued that the Planning Commission had the authority and the obligation to look into this because Commissioner Hall could not have done this on her own. He felt there had to be participation by Staff. He reiterated that he has obtained documents from the Army Corps of Engineers pursuant to his Freedom of Information Act ("FOIA") request, and he knew when the trees were planted and whether permits were given. He also referenced his Government Records Access and Management Act ("GRAMA") request for all e-mails between Commissioner Hall and Planner Ananth, and he is aware of the communications. Speaker Theobald stated that it was the Planning Commission's job to figure this out, as it had gone on for two years.

Gerry Hall identified himself as the owner of Lot 2. He stated that he had not planned to speak this evening, as he was not informed that this big of an event would be occurring during this meeting. He stated there were a number of gross mischaracterizations by the neighbors, and he felt it was unfortunate that they had taken this tactic and general viewpoint toward what should be an easily rectifiable situation.

Speaker Hall reported that they purchased the house three years ago. The house was built 20 years ago and landscaped without any complaint. All they had done since then was to pull a remodel permit. They made the house smaller than the one they purchased. He added that they planted approximately 20 trees on a property that already had at least 200 trees, all of which were planted by previous owners. He pointed out there was no view protection for the neighbors in either the Plat, the LMC, or the Covenants, Conditions & Restrictions ("CC&Rs"). He stressed that any such implication otherwise was false.

Speaker Hall stated he had spoken to most of the neighbors who spoke during this meeting, and offered to move trees. They also changed plantings in which they planted smaller juniper bushes where they intended to plant taller trees. He added that they also moved trees at least 20 feet for the Nelli's, not six inches as Speaker Nellie stated. He noted that was a great cost as it had already been planted.

In terms of the well and other issues, Speaker Hall explained there were a number of places within the LMC, the Plat, and within various agreements with the City over the years that allowed for irrigation of the property. He noted that in addition to irrigating the property, these documents also explicitly allowed for various uses they chose not to do, including grazing horses, building fences, and paths.

Speaker Hall stated that the permit for the house that Speaker Theobald complained about so vociferously was for a remodel. They were in the process of that remodel for almost one year before Speaker Theobald raised any complaints. He noted that the complaints only came after they planted a handful of trees on a property that was already full of trees. He wanted the Commission to be aware that at the end of the day, this came down to a handful of neighbors wanting to protect their mountain views, which he understood. He noted these neighbors did not necessarily have a legal right to those views, but he understood the desire for them to hold onto them. He met with Patrick Nelli and offered to put a view easement on the property that would allow them to continue their views if they would stop harassing the Halls. He noted that the offer had gone unheeded, and instead, they chose this path.

Speaker Hall commented that Speaker Theobald had gone after three other neighbors over the last two years. He did not feel that this type of bullying activity should be how the City functions. He stressed that he was still open to working with the neighbors and helping to alleviate their concerns about the views, as it is really the only thing they are concerned about. He did not feel this was the forum to accomplish that.

Chair Suesser asked if there was an understanding that the 20 trees he planted were planted appropriately and outside of the wetlands-restricted area. Speaker Hall explained there was a very specific area on the Plat map called the "Wildlife Corridor," that is protected and which they are not allowed to disturb. He stated it was essentially Limits of Disturbance defined in the negative. In that area, they were not allowed to plant trees, dig, or run irrigation within that area. The rest of the area is their yard, and Speaker Hall stated that Code Enforcement had been to the house approximately 15 times in the past year and found zero violations. He reiterated that the other 200 trees on the property were planted in the same land use area as the 20 trees they planted. He stressed that the last four owners over the past 25 years had done exactly the same thing, and to accuse them of receiving special treatment simply because his wife sits on the Planning Commission was very offensive. He reiterated that they had done nothing different than any of the previous owners had done over the past 20 years. Speaker Theobald stated he would

be sending an electronic notice of response. He felt it was just another example of misreading Code and Staff not knowing what is out there.

There was no further public communications. Chair Suesser closed this portion of the meeting.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Assistant Planning Director, Rebecca Ward reported that they had a great community meeting for the Bonanza Park Small Area Plan and the City's Five Acre Feasibility Study on July 19, 2023. The meeting was well attended by over 200 community members. There was a survey online at www.BonanzaPark.com that was available in English and Spanish. She encouraged community members to complete that survey.

Chair Suesser echoed that there was a great turnout and a few of the Commissioners were also present for that meeting.

Chair Suesser welcomed back Commissioner Johnson.

Commissioner Sigg stated that he would recuse himself from 958 Woodside Avenue item on tonight's agenda. He reported that he is personally acquainted with the owner of that property, and also has a business relationship with the owner, who is his neighbor.

A. Pursuant to Land Management Code Section 15-12-6, the Planning Commission Will Elect One of Its Members to Serve as Chair for a Term of One Year.

Chair Suesser reported that she has served as Planning Commission Chair for the last year and would like to step down from that position.

Commissioner Van Dine referenced prior discussions about appointing a Vice-Chair who would assume the role of Chair if the Chair were unable to attend a meeting in person. She also mentioned the possibility of designating someone else who could run the meeting in person if the Chair and Vice-Chair were either absent or on Zoom.

Chair Suesser liked the idea and noted that the other item on tonight's agenda was to elect a Vice-Chair as well. She felt that having the Chair or Vice-Chair run the meetings in person would be helpful with the understanding that if the Chair was attending via Zoom, the Chair would still not vote but the Vice-Chair would. She added that they could arrange a third person on-the-fly if needed, and would not necessarily need to designate that person now.

Commissioner Frontero offered that since the current Vice-Chair was Commissioner Hall, he wanted to hear from her whether she was interested in being elevated to Chair. If she were, he would be in favor. Chair Suesser agreed and added that Commissioner Van Dine would make a great Vice Chair, if willing. Commissioner Van Dine also agreed with elevating Commissioner Hall to Chair and expressed her willingness to serve as Vice Chair.

Commissioner Hall stated she would defer to the consensus of the Commission. She added she would serve in any position. Commissioner Johnson asked Commissioner Hall if she wanted to serve as Chair. Commissioner Hall stated that if there was a consensus, she was willing to serve as Chair. She noted there were many good Commissioners and would support the consensus.

MOTION: Commissioner Frontero moved to NOMINATE Commissioner Hall to serve as Chair of the Planning Commission and nominate Commissioner Van Dine to serve as Planning Commission Vice Chair. Commissioner Shand seconded the motion.

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

5. CONTINUATIONS

- A. **544 Deer Valley Loop Road - Condominium Plat Amendment - The Applicant Proposes to Increase the Private Area Square Footage of Each Unit, and to Expand Unit A and Unit B. PL-23-05695.**

Chair Suesser opened the public hearing with the understanding that this item would be continued. There was no public comment. Chair Suesser closed the public hearing.

MOTION: Commissioner Johnson moved to CONTINUE 544 Deer Valley Loop Road – Condominium Plat Amendment, and the public hearing thereon to August 9, 2023. Commissioner Sigg seconded the motion.

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

Commissioner Sigg left the meeting.

6. REGULAR AGENDA

- A. **958 Woodside Avenue - Plat Amendment - The Applicant Proposes to Create Two Lots in the Historic Residential - 1 Zoning District. PL-23-05561.**

City Planner, Spencer Cawley reported that the applicant's representative, Martina Nelson, was present. He reported that the Planning Commission previously reviewed this application in April 2023. The proposal before the Commission had been amended and he stated that he would present the prior proposal for the purpose of comparing it to the amended proposal. The original proposal was to combine 2 ½ Old Town Lots to create one Lot of Record for a total of 4,670.5 square feet. That would have allowed for a Building Footprint of 1,801 square feet and would create a Lot with a width of 62.5 feet. He stated that the existing Footprint of the non-Historic Structure on the site was 913 square feet. At the previous meeting, he reported that the Planning Commission indicated that this proposal was not cohesive with the neighborhood scale or with the Historic District. The applicant, therefore, amended the proposal to create two Lots.

Planner Cawley explained that Lot 1 would create 1,875 square feet, which is a standard Old Town Lot. Lot 2 would be comprised of 1½ Lots for a total of 2,812.5 square feet. He noted that the Building Footprint for both Lots would be much smaller. The Building Footprint for Lot 1 would be 843.75 square feet, and Lot 2 would be 1,200.67 square feet in size. He added that the width of Lot 1 would be 25 feet, and the width of Lot 2 would be 37.5 feet.

Planner Cawley reported that the amended proposal complied with the Pending Ordinance regarding Lot Combinations. He presented an image of the proposed Plat Amendment showing Lots 1 and 2 at 958 Woodside Avenue.

Chair Suesser asked if the proposal included any changes to the Lot lines. Planner Cawley answered in the negative and explained that the only change would be the removal of the one Lot line to combine the 1 ½ Lots.

Planner Cawley reported that the proposal, as amended, complied with LMC Chapter 15-2.2 for the Historic Residential-1 ("HR-1") Zoning District. He stated that future development would be required to meet the Building Height requirements. He noted that the current structure did not meet the Building Height requirements. He added that there was no off-street parking provided by the existing structure, so each Lot would be required to provide two off-street parking spaces as required by the Land Management Code.

Planner Cawley noted the proposal would increase unit density; however, it would decrease the Building Footprint per Lot. He noted that one of the requests from the prior meeting was to see a streetscape in order to better visualize the compatibility with the surrounding neighborhood. He presented images showing both sides of Woodside Avenue and noted 958 Woodside Avenue as it currently existed. He also noted the images showing the proposed Lots 1 and 2 and noted the amended proposal was more in conformance with the neighboring properties along Woodside Avenue.

In response to Chair Suesser's inquiry, Planner Cawley reported that the existing structure straddled the two current Lots. He confirmed that the structure would need to be removed if this application were approved, and referenced the Condition of Approval that required demolition of the existing structure prior to recordation of the Plat. He noted this Plat Amendment would not create a Non-Conformity.

With regard to good cause, Planner Cawley stated that this proposal would resolve an existing Non-Conformity in that the current house was constructed over the Lot line common to Lots 20 and 21. The character of the HR-1 Zoning District would be retained. In addition, he noted that the overall Building Mass would be reduced and it would maintain the transition from the condominiums adjacent to these Historic properties. He added that the new development must comply with the Design Guidelines; specifically, both new structures would be required to go through the Historic District Design Review ("HDDR") process. Planner Cawley added that no public street or Right-of-Way would be vacated or amended, and no easement would be vacated or amended.

Martina Nelson, owner of Park City Surveying, did not have much to add but offered to answer any questions.

Chair Suesser asked if the applicant could build a Single-Family Home on Lot 2 and something like a barn on Lot 1 if this application were approved. Planner Cawley reported that it would be reviewed specific to the zoning requirements for an Accessory Structure, which would require it to be limited to no more than half of the new Lot size. There would also be restrictions on where it could be placed from the Lot lines, as well as structure height. Planner Cawley noted that the owner could potentially propose the example mentioned by Chair Suesser, but it would need to meet the regulations.

Chair Suesser commented that based on Planner Cawley's response, the applicant would not be required to build a Single-Family Home on the smaller Lot. Planner Cawley recalled that a barn was not an allowed use in the Historic District. Assistant Director Ward explained that a Single-Family Dwelling would be allowed, and anything such as a garage or other Accessory Structure

to the Dwelling would have to be on that one Lot. Therefore, the residential use would be on each Lot, and any Accessory Use would have to be added to the Lot in compliance with the Code.

Chair Suesser observed that if this application were approved and there was any new development, it would have to be two Single-Family homes. Senior City Attorney Mark Harrington added that there could also be another permitted use in the zone.

Assistant Director Ward reported that in the HR-1 zone, the allowed uses were Single-Family Dwellings. A Duplex was also an allowed use, but these Lots would not meet the Minimum Lot Size requirement. Therefore, the only allowed uses for these Lots would be Single-Family homes, allowed Accessory Structures.

Commissioner Shand understood there would be two separate Plats, and each Lot would be subject to Setbacks and Code requirements that attach to a separately platted Lot. Planner Cawley confirmed this understanding to be correct. Surveyor Nelson clarified that there would be one Plat with two Lots. Because there would be two Lots, Setbacks and other regulations would still apply to each Lot.

Chair Suesser reiterated that there would have to be two Single-Family homes developed on these two Lots. Assistant Director Ward reported that there were additional Conditional Uses within the HR-1 Zoning District that include a bed and breakfast, boarding house, or minor hotel, but those would require review by the Planning Commission. As far as allowed structures, it would be a Single-Family Dwelling.

Chair Suesser wondered if they were getting to where they wanted to get following the last meeting. She recalled concerns raised about the scale and character of a Single-Family home being built on 2½ Lots. She noted that with the amended proposal, the applicant was increasing density.

City Attorney Harrington clarified that the applicant could propose a structure that would fit under an allowed use in the zone. He noted that 90% of the other uses allowed in the zone appeared to be Accessory-related to a primary use. He noted there could be a parking area use and some agricultural uses. He stressed that he did not want to preclude anything other than a Single-Family Dwelling.

Chair Suesser did not feel the Commission's goal was to increase density by requiring two Lots and not allowing the applicant to build on 2 ½ Lots; rather, it was more the scale of the home that the Commission was trying to regulate.

Surveyor Nelson reported that they took the feedback from the Planning Commission to heart. They heard that the Commission did not feel that a 62.5-foot wide Lot would fit in this neighborhood, and a Single-Family home built to the Maximum Square Footage on the 2 ½ Lots would be too big. She noted that she had seen a change in Old Town going from less density and bigger homes to more density and smaller homes. She reiterated that they took the comments from the last meeting to heart, which was why they proposed a two Lot Plat Amendment for two Single-Family homes. The applicant agreed these two homes would fit in better with the scale of that block. Surveyor Nelson stressed that the applicant was not asking for anything special or outside of the LMC. She made clear that all development would be approved according to City standards.

Commissioner Frontero agreed that the Commission provided feedback that a Single-Family home built to the maximum of the 2 ½ Lots would be out of character. He was glad to see that the amended application was more in line with that feedback. He thanked the applicant for listening to the Commission's feedback and coming back with an application that was more in line with the neighborhood, the general guidelines, and the LMC. He liked this plan better than the original. He spoke with Planner Cawley about Condition of Approval 8 regarding off-street parking and asked Planner Cawley to provide the definition of two off-street parking spaces.

Planner Cawley read the definition of off-street parking from the Code as being: "Entirely outside of any City Right-of-Way, street, access easement, or any private access drive or street required by this Title."

Commissioner Frontero noted that presumably the off-street parking would include a driveway that could fit two vehicles, or there would be a garage and a driveway.

Commissioner Shand reported that he visited the site and observed the other homes along the block. He agreed with former Commissioner John Kenworthy that a home of the size proposed for the larger Lot would have been out of keeping with the neighborhood. He agreed with Commissioner Frontero and liked this plan better, and liked that Lot 1 was the smaller of the two Lots and was located on the end cap of the neighborhood. He also liked the fact that the larger Lot was next to another Lot that appeared to be approximately 37.5 feet wide.

Commissioner Johnson appreciated the Planner's work on this and noted the Staff Report was well done. He had no questions or comments regarding the application.

Commissioner Van Dine agreed with the prior comments and had nothing to add.

Commissioner Hall had no comments or questions.

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

MOTION: Commissioner Van Dine moved to forward a POSITIVE recommendation for City Council's consideration on August 22, 2023, for 958 Woodside Avenue – Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Ordinance as follows:

Findings of Fact

1. The property is located at 958 Woodside Avenue.
2. The property is listed with Summit County as parcel numbers SA-17-A and SA-18 and consists of Lots 19, 20, and the North half of Lot 21 in the Snyder's Addition.
3. The property is in the Historic Residential-1 (HR-1) Zoning District.
4. The Applicant seeks to create two Lots of record.
5. Lot 1 will remain 958 Woodside Avenue, and Lot 2 will be 954 Woodside Avenue.

6. The site contains an existing Non-Historic Structure built in 1972.
7. The current minimum Lot Size in the HR-1 Zoning District is 1,875 square feet. The Proposed Lot 1 is 1,875 square feet and Lot 2 is 2,182.5 square feet.
8. The current minimum Lot Width in the HR-1 Zoning District is 25 feet. The Proposed Lot 1 25 feet wide and Lot 2 is 32.5 feet wide.
9. No remnant Parcels are created with this Plat Amendment.
10. The Proposed Lot Sizes are consistent with adjacent Lots.
11. The Building Footprint of the existing Structure is 913 square feet.
12. Proposed Lot 1 will have a Maximum Building Footprint of 843.75 square feet and proposed Lot 2 will have a Maximum Building Footprint of 1,200.67 square feet.
13. A Single-Family Dwelling is an allowed Use in the HR-1 Zoning District.
14. The Front and Rear Setback is ten feet each. The existing Structure is set back 19 feet from the Front Property line and 23 feet from the Rear Property line.
15. The Side Setback is three feet each side. The existing Structure is set back five feet from the west Property line and 29 feet from the east Property line.
16. The HR-1 Zone height is 27 feet from existing grade. The existing Structure is legal non-complying and has a height of 37 feet.
17. Maximum Building Footprints for each Lot are more in-scale with the neighborhood.
18. Each Lot requires two off-street Parking Spaces.
19. There is Good Cause for this Plat Amendment because it resolves an existing nonconformity, present Land Uses and the Character of the HR – 1 Zoning District are retained, no public street or Right-of-Way is vacated or amended, and no easement is vacated or amended.
20. Snyderville Basin Water Reclamation District notes that the existing private lateral wastewater line is shared with 950 Woodside Avenue and crosses 962 Woodside Avenue, out to 10th Avenue.
21. Notice was published on the City's website, the Utah Public Notice website, mailed courtesy notices to property owner within 300 feet, and posted notice to the property on June 28, 2023.
22. *The Park Record* published notice on June 28, 2023.

Conclusions of Law

1. The Plat Amendment is consistent with the Park City Land Management Code, including LMC Chapter 15-2.2, Historic Residential (HR-1) Zoning District, and LMC § 15-7.1-6, Final Subdivision Plat.
2. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
3. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The Planning Department, City Attorney, and City Engineer will review and approve the final form and content of the Plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The Applicant shall record the plat at the County within one (1) year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this Plat approval 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 Plat shall note that fire sprinklers are required for all new construction.
4. A non-exclusive ten-foot (10') public snow storage easement on Woodside Avenue shall be dedicated on the Plat.
5. The plat shall note the Maximum Building Footprint for Lot 1 is 843.75 square feet and Lot 2 is 1,200.67 square feet.
6. The non-historic Structure shall be demolished prior to recordation of the Plat.
7. New construction on Lot 1 and Lot 2 shall comply with the LMC in effect at the time of Building Permit application.
8. Each Lot shall have a minimum of two Off-Street Parking spaces.
9. Prior to redevelopment, the applicant must provide a survey of significant vegetation and submit a landscape plan that justifies replacement of the vegetation as outlined in LMC 15-5-5(N).
10. Any development on Lots 1 and 2 must undergo the Historic District Design Review Process for Compliance with LMC § 15-13-8 Design Guidelines for Historic Districts and Historic Sites.

11. Any development on Lot 1 or Lot 2 shall require wastewater service be routed to Woodside Avenue, which shall include the installation of an injector waste pump.
12. The Plat shall note that this Lot is subject to Ordinance 2023-XX.
13. The Engineering Department shall review and approve all Lot grading, utility installation, public improvement, and drainage plans for compliance with City standards prior to issuance of any building permits.

Commissioner Frontero seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Sigg did not participate in the vote.

After a brief recess, Chair Suesser called the meeting back to order. Commissioner Sigg rejoined the meeting.

B. 2346 Park Avenue - Conditional Use Permit - The Peaks Hotel Proposes Changes to an Existing Conditional Use Permit to Install a Tent in the Hotel's Rear Courtyard for Private Events and Hotel Guests. PL-23-05669.

Planner Cawley reported that last June, the Planning Commission approved The Peaks Hotel to install a courtyard tent in the rear courtyard 12 times per year, 5 days per installation. The Commission also granted a parking reduction based on a Parking Management Plan. In addition, he recalled that the Conditional Use Permit ("CUP") included approvals for hotel events and outdoor use for Versante on the Lawn. Versante on the Lawn also received an Administrative CUP for their outdoor use. He noted that a Fire Permit was required, as well as an inspection for each installation.

Planner Cawley reported that one of the Conditions of Approval in the Final Action Letter required The Peaks Hotel to return to the Planning Commission within one year to review this application and to see if there were any further mitigations needing to be imposed. He stated that The Peaks Hotel proposed additional changes to the existing CUP. He reported that Versante on the Lawn had terminated, and would not be activated moving forward. With regards to the tent approved for 12 times per year, 5 days per installation, the applicant requested two installations. The first installation would be for a summer use from the last week of May to the first week of October, not to exceed 180 days.

Planner Cawley explained that the winter use would be an installation the last week of November, and removal in the second week of April. This use would likewise not exceed 180 days. He reported that the original approval included a Traffic Demand Management Plan, in which the Hotel agreed to do several things. One of those was to give the guests of the hotel contracted parking information, which included the location of additional parking, parking underground, and parking requirements for events held at the Hotel. He added that the Hotel was required to keep a current towing contract. In addition, the Hotel painted the curb along Jupiter View Drive red and installed "No Parking" signs on the road along the Hotel's property.

In addition, the Hotel ran ads three times per week on KPCW in which they provided information regarding public transit and active transportation opportunities for Versante on the Lawn's

activation. This also included incentives for discounts on food. Planner Cawley added that the applicant was required to complete an updated parking review during the summer months, including statistical numbers for Versante on the Lawn. He reported that the Planning Commission must review and approve a proposal to install a temporary tent on site for periods longer than 14 days and more than five times per year. He referenced the table in the Staff Report that showed compliance with both the Residential Development-Medium ("RDM") and Frontage Protection Zone ("FPZ") Setback requirements.

Planner Cawley explained that the FPZ was specifically enacted to protect the scenic view corridors of the City, and Park Avenue is one of those scenic corridors. He stated that the tent would be located in the rear courtyard and not visible from Park Avenue. As conditioned, the proposal complied with the LMC Section regarding Temporary Structures, Tents, and Vendors. He added that the International Building Code requires an operation or fire permit to be issued by the Building Department prior to installation. The Fire Marshal must also conduct an inspection prior to use of the tent. He reported that this proposal was for two installations per year, not to exceed 180 days. The applicant also requested ongoing annual use. He noted the Conditions of Approval in the Final Action Letter that were specific to following the Municipal Code on noise. There were no proposals for signs or lighting and the applicant agreed to adhere to the State, County, and City requirements regarding mass gatherings. In addition, the Conditions include the requirements for compliance with the International Building Code.

Planner Cawley reported that the proposal, as conditioned, complied with the Conditional Use Permit criteria. Conditions of Approval 6 – 10 were specific to the installation criteria. He reiterated that the summer installation was limited to the last week of May with removal in the first week of October. The winter installation would be from the last week of November to the second week of April. He added that during the summer months, only the tent frame was allowed to remain installed; therefore, the applicant would be required to install the top panels one day before and remove them one day after a summer private event at the Hotel.

Additionally, at the end of the installation period, the frame must be dismantled and removed from the site. He noted the Condition that a fire permit was required prior to installation of the tent, and inspection by the Fire Marshal after installation every two weeks. This requirement applied to both installations. In terms of parking, Planner Cawley referenced a table that outlined the uses on the site. He mentioned the Hotel, the restaurant, and the tent use. For all of those uses, there would be a total of 168.2 required off-street parking spaces. He noted there were 135 parking spaces available on-site; therefore, the applicant requested a reduction of 33 parking spaces.

Planner Cawley mentioned that the approval from last year included a reduction of 41 total parking spaces. He reported that the applicant had been using certain strategies to regulate the off-street parking. There was parking for 36 bikes with on-site bike racks. He added that the garage remained open to the public for use during Hotel invite-only events, and was not limited to Hotel guests.

Additionally, the applicant would maintain the towing contract, the "No Parking" signs, and the painted red curb. He reported that the applicant also had security that helped manage traffic during private events at the Hotel, and the Hotel installed signs directing parking to the garage entrance in the south lot. Planner Cawley noted that typically the north lot filled up first, and many attendees did not realize there was additional parking in the garage or the south lot.

With regard to the Parking Study, Planner Cawley explained that the applicant conducted the study between July 7th and August 1st of last year. The highest average parking occurred on July 16th, which was a Saturday. The average was 84 parked cars and the lowest average parking was on Tuesday, July 26th with 38 parked cars. He added that the Parking Study showed that Friday, July 8th was the only time the lot reached full capacity of 135 parking spaces at 6:00 p.m. He referenced the Staff Report that cited the Parking Study information that the following hour it dropped back down and then increased once again at 8:00 p.m. without reaching full capacity.

Planner Cawley highlighted Conditions of Approval 13 and 14 that were a carryover from last year's approval. These provide that the Planning Director reserves the right to revoke the CUP, reduce attendance to an event, terminate programming, or create additional mitigation strategies to keep parking on site. He also noted the Condition of Approval that the applicant was required to continue to provide guests with detailed information regarding the underground parking and requirements for parking during events. Additionally, the towing contract shall be maintained.

Planner Cawley reported that the Planning Commission could approve the CUP for the tent only, approve the CUP for the tent and grant a parking reduction, or deny the CUP. The Planning Commission could also request additional information and continue the discussion to a date certain.

Chair Suesser asked about the dimensions of the proposed 800-square-foot tent. Planner Cawley reported it would be a 20' x 40' tent, which is the same size as the current tent. He confirmed that the proposal would not expand the size of the tent, only the frequency of use.

Chair Suesser referenced the slide that mentioned the garage would be open for use by the public during Hotel invite-only events and requested clarification. Planner Cawley reported that last year, part of the discussion was that the underground parking was only for Hotel guests. The events that use the tent would be for Hotel guests and their invited guests. Therefore, Staff required that the garage remain open during those events so that those who were not staying at the Hotel would still be able to park in the garage.

In response to Chair Suesser's inquiry, Planner Cawley presented an image of the signage directing people to park in the garage. She recalled her recommendation that the Hotel guests be required to park in the garage to free up the surface parking for guests coming to Versante on the Lawn. She reiterated that recommendation for this application.

Chair Suesser felt the garage was not being utilized to its capacity by the public, because it was not clear that the public could park there for free.

The applicant's representative, Sean Rayner reported that the parking garage door was opened every Friday afternoon and left open through the weekend.

Commissioner Johnson observed that the applicant proposed using the tent for 10 months of the year. He wondered why the Planning Department did not request an updated Parking or Transportation Plan that included the winter months. He noted this was a long-term use and the Study from last year was from July 7th to August 1st and contemplated Versante on the Lawn. He noted that was a huge community benefit considered by the Planning Commission in allowing a 41-car parking reduction. He asked the applicant if the Hotel was contemplating a permanent structure to accommodate this proposed use, and if so, what the timeframe would be. Applicant

Rayner believed that the Hotel was contemplating something out there, but there was no time frame at this point.

Applicant Rayner added that in addition to the parking count last summer, they also conducted one in February. Commissioner Johnson suggested including that as an additional exhibit or that the information be sent to the Commission. Applicant Rayner reported that they typically have fewer cars during the winter months because people use airport transportation or Uber. The car count was way down in the winter as compared with the summer.

Commissioner Johnson reiterated that he would like to see that information. He added that as the Hotel was expanding this into more of a regular use, he would like to know more about the expansion of events and the need for a longer-term tent. Commissioner Van Dine agreed with Commissioner Johnson and recalled that when they reviewed the prior application they based some of the parking reduction on the community benefit and the summer use of Versante on the Lawn. Now that that use was completely gone, which she noted was disappointing, she would like to see the parking numbers. She noted that the neighboring Homeowners' Association ("HOA") was okay with the framing and the tent. She recalled that the HOA was not supportive of this previously and wanted to know about the change of heart. Commissioner Van Dine also questioned having the metal frame up for an additional two months and echoed Commissioner Johnson's question about a more permanent structure.

In response to an additional inquiry from Commissioner Van Dine, Planner Cawley reported that if there were a tent outside of the courtyard, the applicant would need separate approval. If this application were approved, it would allow the applicant to use the tent for any permitted event. Commissioner Van Dine clarified that she was referencing those times when the tent was removed, and asked if the applicant would be precluded from any events during those shoulder months. Planner Cawley stated that during the times when the tent was removed, there could not be any events and the tent could not be installed. She requested further information on the HOA's support for having the tent up for 10 months out of the year.

Commissioner Shand asked for a breakdown of the number of parking spaces in the garage versus on-surface lots. He asked if the intent of opening the garage parking to non-Hotel guests would make more efficient use of the garage parking space.

Applicant Rayner reported that many of the Hotel guests do not use the parking garage in the summer. He noted that many who come to Versante now use the garage because they know about it. He echoed Commissioner Van Dine's inquiry regarding the neighboring HOA and asked if the applicant had a letter of support. Applicant Rayner stated he did not have a letter.

Assistant Director Ward stated there were representatives of the HOA present to provide public input. Commissioner Frontero noted that this request is a far cry from what was currently allowed. He asked the applicant why the change was necessary.

Applicant Rayner stated it was a timing issue with the company that installs the tent. He stated the applicants could not install the tent themselves. Additionally, they have events virtually every weekend, and it costs \$1,800 to install the tent, and \$1,800 to remove it. Commissioner Frontero understood that the proposal was to leave the structural posts up and remove the top in between events. He asked about the inclusion of the 180 days. Planner Cawley explained that came from the International Building Code, which provides that a temporary structure cannot be installed for more than 180 days. Commissioner Frontero asked to reduce it because he did not want the

Hotel to have the option to leave the tent up for 180 days in the summer and another 180 days in the winter. He suggested tightening the time frame to reflect the months included in the application.

Commissioner Frontero reported that he drove by this structure and agreed that it was not very intrusive. He was not surprised that the HOA wrote a letter stating they were not disturbed by it. However, he agreed with the other comments that expressed the need to move towards a more permanent structure. He noted this seemed to be a part of the Hotel's new business philosophy towards a more wedding/event-driven site, and he expressed that it should be incorporated into the Hotel going forward.

Given that, Commissioner Frontero was not comfortable with the request without having the applicant return each year for re-approvals. He understood the current Code would require the applicant to return each year. Planner Cawley stated that was up to the Planning Commission. Commissioner Frontero stated he did not want to be overly onerous on the applicant, but would be more comfortable having the applicant return each year, or every other year until this became permanent. Applicant Rayner was agreeable with returning each year.

Commissioner Frontero asked if the Planning Director could conduct the annual review. City Attorney Harrington reported that there was already a Condition of Approval specific to the parking review. If a full review was requested, they typically included a Condition that the Planning Commission shall conduct that full review. He stated the Planning Commission could require annual Planning Director review. Applicant Rayner reported that he would be willing to come in every six months if he had to.

With regard to parking, Commissioner Frontero understood there was a reduction approved in the prior application when the Commission found that Versante on the Lawn was a community benefit. He noted that had changed, and because the number of hotel rooms had not decreased, the parking requirement was still 176 spaces pursuant to the Code.

Commissioner Johnson understood from the Staff Report that 135 parking spaces were approved, and anything above 135 for this proposed use would be an exception. Planner Cawley explained that the 176 parking spaces included the use of Versante on the Lawn. Without Versante on the Lawn, the parking requirement is reduced to 168.2 parking spaces required by the Code. The applicant requested a reduction of 33 parking spaces from the 168.2 required spaces.

Commissioner Frontero asked why the applicant needed a reduction in parking. Planner Cawley explained that the applicant's property did not meet the requirement for all uses on the property; therefore, the applicant requested the reduction so that they could have this tent use on the property. Commissioner Frontero asked what happens when the parking is at capacity, as reported for July 8th. Applicant Rayner could not answer that question. He noted they had one day where they reached capacity at 135, but most of the people who attend events stay at the Hotel. If event guests are not staying at the Hotel, the applicant requests the event organizer to rent buses or shuttles for the off-site guests. Applicant Rayner added that the Hotel explains to event organizers that there is limited parking and no street parking. However, he could not answer where excess cars would park.

Commissioner Hall asked if there was a Condition of Approval requiring instructions to event organizers regarding parking. Applicant Rayner stated that it is an internal policy. He added that the Hotel also hires security during those functions to monitor parking and make sure no one

parks on the back street. Commissioner Hall agreed with the prior comments and specifically referenced Commissioner Frontero's questions. She did not support a parking reduction and noted that she was part of the Commission that approved the prior parking reduction because the predominant users of the lawn were biking or walking. She felt that was a different clientele from the one that was looking to utilize the event center for weddings. She would like additional Conditions of Approval if the Commission felt a parking reduction was warranted. She stressed that these were two very different parking reductions based on the type of use.

Chair Suesser agreed with Commissioner Hall's comments but felt that the elimination of Versante on the Lawn reduced some of the parking demand. She added that out-of-town guests attending events under this tent were more likely to take shuttles or ride shares. She felt it balances in terms of the 135 spaces and did not foresee that being a strain on parking without Versante on the Lawn.

Chair Suesser added that the elimination of Versante on the Lawn was a loss for the community.

Commissioner Sigg was interested in hearing from the Parkview Condominium HOA beyond what was submitted at the last public hearing. He commented that a reduction of parking fell in line with supporting transportation initiatives for the local population. If the parking was driven by the events under the tent, he wanted to have a better understanding of how the bus system and transportation stops functioned in that area. He stated the biggest parking issue for him was Jupiter View Drive as a dedicated City street, and he would not want that to become an overflow-parking road.

Commissioner Sigg asked if the applicant could have events even when the tent was removed but the framing remained. He wanted to see language that would address lighting and the use of the skeleton facility. In response to Commissioner Sigg's inquiry, Applicant Rayner confirmed that the tent was installed on a concrete slab. Applicant Rayner also explained that event guests used the facilities within the Hotel and the applicant does not bring in porta-potties. Applicant Rayner reported that there were two sets of restrooms on the first floor of the Hotel. Commissioner Sigg felt the numbers were important so they would not get into a situation where there were insufficient facilities for event guests.

Commissioner Sigg commented that Versante on the Lawn was a different paradigm than what was proposed currently, and his biggest concern was that Jupiter View Drive would become overflow parking for this use. Applicant Rayner stated that there were "No Parking" signs on both sides of the street. The Hotel owns 1/3 of the street, and the other two properties own a 1/3 each, and he stressed it was a private road. Chair Suesser added that the curb was painted red in conjunction with the Commission's approval of the Versante on the Lawn parking reduction last year. She understood there was not parking on Jupiter View Drive, and that had been adequately enforced.

Commissioner Sigg asked who enforced the parking. Applicant Rayner stated the hotel does, and when they have events, they hire security to monitor the road and the parking lots. They tow any vehicle parked illegally. Chair Suesser reiterated her suggestion of requiring guests to park in the garage and allow non-hotel guests to utilize the surface parking lots. She asked Planner Cawley to review the suggested changes to the Conditions of Approval.

Commissioner Johnson asked about the breakdown between garage parking spaces and surface parking spaces. Commissioner Shand felt the applicant demonstrated that no overflow parking

would end up on Jupiter View Drive. Even though the applicant performed the Parking Study, he found the number of cars parked at the hotel believable. Based on his experience, more people were taking other types of transportation to the hotel. He was interested in the input from the Parkview HOA regarding the location of the tent. He observed that the tent was shielded on three sides, was not visible from Park Avenue, and he did not know how it could be further shielded. He opined that the Parkview HOA would likely have the most to say about the tent. Planner Cawley reported that the north lot has 40 parking spaces, the south lot has 32 parking spaces, and the garage has 63 parking spaces.

Chair Suesser opened the public hearing.

Derek Howard identified himself as the Secretary and Treasurer of the Park View HOA. He explained they changed their position from last year because Versante on the Lawn was a “pain in the butt.” He understood that people loved it, but it brought local traffic in that parked everywhere, including inside Parkview. Because Versante on the Lawn was gone, the extra traffic and parking was also gone. He reported that Parkview HOA owns two-thirds of Jupiter View Drive and the Peaks owned one-third. The HOA placed “No Parking” signs on their two-thirds of the road, they patrol it and have no issues. When the hotel has events, the HOA puts orange cones at their entrances to prevent event guests from parking in their lot, and he stated it had been remarkably successful.

Speaker Howard stated that The Peaks Hotel has been having events this year and there had been no issues on the road. With regard to the visual of the tent, he explained that they changed their position from last year because the owners who were objecting last year realized it wasn’t that much of an issue. This year, there was excess growth on the trees and the tent was just not an issue.

Speaker Howard also stated that noise had never been an issue. The main issue for them last year was the parking on Jupiter View Drive, and it appeared to have been solved with the removal of Versante on the Lawn. He commented that the City was not correctly placed to try and enforce CUP conditions immediately. He stressed that The Peaks had the HOAs support for the tent. There would be no issue having the tent up for 180 days in the summer or the winter. He reiterated that parking was addressed and the HOA had no issues.

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

Commissioner Frontero noted that there was only one peak day on July 8, 2022, during Versante on the Lawn. Applicant Rayner stated that many people walked and rode bikes, but there were a lot of people who drove. He explained that was part of the reason they eliminated it for the summer because they wanted to keep the tent and have events out back. Doing both did not work. Applicant Rayner reported that he counted the cars for the Traffic Study. He explained that he started at 8:00 a.m. and counted the cars in each lot every hour until 5:00 p.m. After 5:00 p.m., the front desk counted cars until 9:00 p.m.

Commissioner Van Dine addressed Commissioner Sigg’s comments regarding lighting by stating that it was covered by the Code. She did not feel the Commission needed to address lighting or noise in the Conditions because it was already regulated by Code. Chair Suesser asked if the applicant would be prohibited from hosting an event on the concrete slab without a tent. Planner Cawley stated that without the frame, the applicant could still hold events; however, they would still be required to meet the Noise Ordinance and the Lighting Code. Applicant Rayner reported

the hotel did not sell any events outside October/November or in April/May during the times when the tent is removed.

In response to Commissioner Johnson's question, Applicant Rayner reported that the hotel had utilized an outdoor tent on the property for approximately three years. Commissioner Johnson reiterated his prior comment that this would go to a 10-month use on the property as opposed to 12 times per year. He understood the cost factor; however, he wanted them to work towards a permanent solution versus a constant temporary solution for this use. Commissioner Johnson noted that the applicant had found a use that was profitable and was a great venue, but it should be a permanent use. He mentioned updating the Building Footprint. Applicant Rayner stated a new company purchased the hotel last April. He stated the prior owner had plans to build out there, and the new owner was planning to do a remodel next year. He was aware there was a plan for outside, but he did not know the details of that plan.

Chair Suesser observed they were going from 60 days of allowed use to 240 days. Commissioner Shand noted that this was the progression in building a permanent structure. He stressed that the location of the tent was hidden from everyone except the hotel and Parkview HOA. Commissioner Sigg concurred with Commissioner Shand regarding the location of the tent and stated that it was as well concealed as it could be. He also agreed with the comments regarding a permanent structure but understood there was likely to be redevelopment.

With regard to the 240 days, he questioned whether it would actually be used that entire time. Because of the location and Parkview HOA's position, Commissioner Sigg was leaning toward approval of this CUP.

Planner Cawley next addressed the suggested changes to the Conditions of Approval. He added Condition of Approval 16 requiring that the applicant shall return every year. City Attorney Harrington suggested having the first review at the end of the winter season, and then one year after that. The Commission could then decide where to go from there. There was discussion regarding language and there was consensus to require the initial review within four weeks of the end of the winter season.

Planner Cawley asked if the Commission wanted to see the original winter parking study, and an updated parking study as part of the review. Commissioner Johnson answered in the affirmative and suggested that it be done during a peak week in the winter such as President's week.

With regard to Commissioner Frontero's concern about the 180 days, Planner Cawley reported that the last week of May to the first week of October was approximately 120 days. November to April was also roughly 120 days. The applicant stated he was okay with the change to eliminate the reference to 180 days.

Planner Cawley asked Commissioner Hall about her suggested Conditions regarding the parking reduction. Commissioner Hall suggested something stating why they were approving a parking reduction. She noted the attached contract was not incorporated into the Conditions of Approval in terms of requiring guests to take alternative modes of transportation. She stressed that the prior reduction was based on the type of use, and this would be an entirely different use for the parking reduction.

Chair Suesser expressed confusion in that they approved a parking reduction for the outdoor tent and Versante on the Lawn, and now they have eliminated Versante on the Lawn and they would not have the cars they had for Versante on the Lawn.

Commissioner Hall recalled that a significant part of the discussion on the prior approval, as well as her anecdotal experience was that most people were biking or walking to Versante on the Lawn. Therefore, the parking reduction seemed more justified in that circumstance. Even though the hotel was eliminating that use, she felt that the parking reduction was based on the fact that so many people would bike and walk to that use.

Chair Suesser reasoned that the prior application was for the outdoor tent and Versante on the Lawn, and they allowed the parking reduction. One of those uses was now eliminated, so they eliminated the need for any parking for that use. Commissioner Hall agreed but felt that much of the support for the parking reduction was that the sheer volume of people using the lawn were non-car users. She felt there was nothing in the Conditions of Approval that referenced the attached exhibit regarding event use and suggested incorporating that into the Conditions. She also suggested a Condition that the hotel guests utilize the underground parking.

On Commissioner Hall's last point, Chair Suesser stated that if more guests were coming to the venue more frequently to use the event space, that would increase the desire for the hotel guests to park in the garage thereby allowing the public to use the surface lots. Chair Suesser expressed support for a requirement to have the overnight hotel guests park in the parking garage. She asked if there was a consensus on this point, and noted that she raised this last year and there was no consensus.

Commissioner Van Dine stated they could build that into the parking contract they already have for guests, but was unsure how the hotel could enforce such a requirement. She felt the applicant had done a good job delineating where people should park, and did not know how much this requirement would add. Commissioner Van Dine also noted that parking at the hotel had not been an issue, and knowing that at any time this application could be administratively reviewed and possibly revoked, she felt such a requirement unnecessary.

Commissioner Shand noted that Commissioner Hall suggested making parking in the garage mandatory for hotel guests, but he felt the applicant approached it from the other standpoint of making the garage parking available for the public. He noted the applicant's Parking Study demonstrated that the parking was underutilized, and Staff noted there was quite a bit of overlap between hotel guests and visitors. He stated that despite the Code requirement for a certain number of parking spaces for the listed uses, there was quite a bit of overlap.

Commissioner Shand added there are a lot of places where people may park overflow, but the private road was not one of those places. Applicant Rayner stated that if they just wanted the garage parking for hotel guests, they would leave the door closed and the guests would need a key to get into the garage. He commented that due to the age of the building, the parking garage is so low that many vehicles could not use the parking garage.

City Attorney Harrington suggested modifying Condition of Approval 13 to add a requirement that the applicant shall submit a Parking Management Plan that prioritizes the availability of the underground parking to the Planning Director. He would add to the next sentence "If the Planning Director determines the Parking Plan is not managing the parking..." If they wanted to add

additional parking mitigation strategies to the plan for their consideration, the Commission could do so.

Chair Suesser noted that anecdotally, she was in this area often, and the garage is almost always closed and requires a key to open. She stated it was often difficult to find a parking spot in the surface lot. She suggested that be addressed in the future, as she felt it had not been adequately open to the public to date. Applicant Rayner acknowledged that the garage was not open on the weekdays. Instead, they open the garage on Fridays and Saturdays.

Chair Suesser confirmed that they would like to make the changes to Condition of Approval 13, as suggested by City Attorney Harrington.

City Attorney added that another option for the parking counts, he asked if they wanted to specify that the Commission wanted counts broken down by the three areas so they know the percentage for each usage. Applicant Rayner stated that he broke down the parking counts by north lot, south lot, and underground parking.

Commissioner Van Dine added that those counts would need to be available for review following the winter season. Chair Suesser questioned whether the Parking Management Plan and the parking counts were providing enough information regarding how the lots were being utilized and whether there was space available for people going to Versante and whether hotel guests were utilizing the underground garage. With regard to Condition of Approval 1, Commissioner Johnson asked if it should reference 55dBA based on the hotel's location in the RD Zone. He referenced Municipal Code Chapter 6-3.9(A). He asked whether the applicable provision was based on commercial use or the zone.

Planner Cawley explained that the Code reads that it should be measured at or within the property line of the receiving property, which to him meant the residential properties. Commissioner Johnson stressed the chart and stated he was fine either way. He just wanted to confirm what information was correct.

City Attorney Harrington acknowledged that the chart referenced District rather than Use, and felt that Commissioner Johnson was correct. Planner Cawley presented the redline changes to the Conditions of Approval.

Commissioner Hall liked the addition to Condition of Approval 13. She referenced page 7 of the Staff Report and the CUP criteria in regard to traffic. There are specifics as to mitigation methods used to justify the parking reduction. She stated that if the Commission was satisfied with how it was written, she felt it was a good improvement from the initial Draft Ordinance. However, she felt that the justifications for the parking reduction that were included in the Staff Report were not included in the Conditions of Approval. Commissioner Hall agreed that deferring to a plan overseen by the Planning Director was a good practice. Chair Suesser added that she often liked to include those in the Conditions of Approval as well. She asked the Commissioners whether they wanted to further edit the Conditions. Commissioner Van Dine supported the current language, as amended because the Commission would review it after the winter season. Commissioner Frontero concurred.

MOTION: Commissioner Johnson moved to APPROVE 2346 Park Avenue – Conditional Use Permit, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended, and outlined in the Draft Final Action Letter:

Findings of Fact

1. On June 15, 2022, the Planning Commission approved a Conditional Use Permit (CUP) to allow the Peaks Hotel to install a tent in the rear courtyard area 12 times per year for five days for each installation. The Planning Commission also approved a parking reduction for the site.
2. The Peaks Hotel was constructed in 1985.
3. The Peaks Hotel is located on Lot 1 of the Parkview Subdivision and is in the Residential Development – Medium Density (RDM) Zoning District.
4. The hotel contains 127 rooms, 135 Off-Street Parking spaces, and the Versante Restaurant.
5. The site is approximately 60,000 square feet (1.3 acres).
6. Temporary structures, or tents, are a Conditional Use in the RDM Zoning District.
7. Condition of Approval 17 of the Final Action Letter dated June 15, 2022, requires the Applicant to complete a one-year review with the Planning Commission. This review may require changes to the CUP approval or the Traffic Demand Management (TDM) plan to ensure compliance and mitigation of impacts. If the CUP is not reviewed then the approval for a parking reduction and the outdoor uses may be revoked. The Planning Commission reviewed the plan in 2022 and found mitigation was sufficient.
8. The Peaks Hotel requests that the Planning Commission modify the CUP approval to allow for the tent in the rear courtyard area to remain up for more than the approved five-day period. Due to the cost of installing and dismantling the tent, the Applicant requests to install the tent at the start of the Summer and remove the top panels when the tent is not in use.
9. Summer installation is the last week of May to the first week of October.
10. The Applicant also requests to install the tent for a second period during the Winter.
11. Winter installation is the last week of November to the second week of April.
12. During the Summer installation period, the tent is for private, invite-only events at the Peaks Hotel.
13. During the Winter installation period, the tent is for the use of hotel guests.
14. The location of the tent remains the same as approved by the Planning Commission in 2022 – the hotel's rear courtyard.

15. The tent complies with RDM Front, Rear, and Side Setbacks.
16. The Site is in the Frontage Protection Zone (FPZ). The tent location is more than 30 feet from SR 224/Park Avenue and is shielded by the hotel on three sides.
17. The proposal, as conditioned, complies with LMC § 15-4-16 Temporary Structures, Tents, and Vendors.
 - a. Parking. Complies – Installation of the tent will not reduce the site's Off-street Parking.
 - b. Pedestrian Circulation, Emergency Access, Public Safety. Complies – Due to the location of the tent in the hotel's rear courtyard area, the tent will not impede pedestrian circulation. Park City Fire District reviewed the proposal on June 6, 2023, and did not have any concerns with the proposal. The Applicant is required to ensure proper emergency Access is maintained through inspections with the City's Fire Marshal. The tent requires an operations (fire) permit prior to installation. The Applicant is also required to maintain fire land and emergency access for personnel, vehicles, and equipment in the vicinity of the tent, and adjacent permanent Structures. Emergency clearance shall be to the satisfaction of the Fire Marshal.
 - c. Noise. Condition of Approval 1 – Wedding events in the courtyard have amplified music. All music is directed inward rather than toward the Parkview Condominiums. The Applicant indicates that all activity in the courtyard is over by 9:45 PM and hotel quiet hours start at 10:00 PM.
 - d. Signs and Lighting. Conditions of Approval 2 & 3 – Signs and exterior lighting are not proposed with this application.
 - e. Health Code, Fire Code, and Mass Gatherings. Condition of Approval 4.
 - f. International Building Code. Condition of Approval 5 – Section 3103 of the 2018 IBC regulates Temporary Structures installed for less than 180 days. "Tents, umbrella structures and other membranes structures erected for a period of less than 180 days shall comply with the International Fire Code" (IFC). Section 105.6.47 of the 2018 IFC says, "An operational permit is required to operate an air-supported temporary membrane structure, a temporary special event structure or a tent having an area in excess of 400 square feet".
18. The proposal, as conditioned, complies with the Conditional Use Permit criteria outlined in LMC § 15-1-10(E).
 - a. Size and Location of Site. Complies – The tent is 20 feet by 40 feet. During the warm months, the tent does not have walls. In cold months, the tent will be enclosed with temporary walls. The tent is installed in the rear courtyard and is surrounded by the hotel on three sides—north, east, and south.

- b. Traffic. Complies – In the Summer, the tent is used for events, such as weddings, and will be utilized by guests of the hotel. The event planner is required by the hotel to hire a private shuttle service to pick up any event guests not staying at the Peaks Hotel. These event guests stay at other hotels in the area or a nightly rental. The private shuttle schedules times to pick up event guests, making only one trip to drop off at the private event. So far this year, the Peaks Hotel has held ten private events, and no private shuttle service was needed. In the Winter, the tent will be used by hotel guests only and will not create additional traffic.
- c. Utility Capacity. Complies – The Water Department and Public Utilities reviewed the proposal and do not have concerns.
- d. Emergency Vehicle Access. Complies – Park City Fire District reviewed the proposal and does not have concerns with access. The hotel's north parking lot is large enough for emergency vehicle access. The Applicant is also required to maintain fire lane and emergency access for personnel, vehicles, and equipment in the vicinity of the Temporary Structures, and adjacent permanent Structures. Emergency clearance shall be to the satisfaction of the Fire Marshal.
- e. Location and Amount of Off-Street Parking. See Findings of Fact 17 through 26.
- f. Internal Circulation. Complies – The location of the tent does not impact vehicles or pedestrians on site.
- g. Fencing, Screening, and Landscaping. Complies – The tent is surrounded on three sides by the hotel. The top of the tent is visible over the berm from Jupiter View Drive and is visible from the Park View Condominiums. Peaks Hotel added trees to their property to help screen the tent from the properties across Jupiter View Drive. However, the tent is still visible.
- h. Building Mass, Bulk, and Orientation. Complies – The tent is appropriately sized for the location of the courtyard. The Building's mass helps to shield the tent on three sides.
- i. Open Space. Complies – The tent is installed on an existing concrete pad and does not interfere with Open Space.
- j. Signs and Lighting. Conditions of Approval 2 & 3 – New signs are not proposed with this modification. New temporary or permanent signs require a sign permit. No exterior lighting is proposed or approved with this CUP. Exterior lighting must be Fully Shielded and cannot exceed 3,000 degrees Kelvin. Any exterior lighting must be reviewed and approved by the Planning Department prior to installation. String lights are permitted year-round on decks, porches, and patios, but are not allowed in landscaping.

- k. Physical Design and Compatibility. Conditions of Approval 6 through 10 – The tent is compatible with the courtyard in a temporary nature. All mechanical equipment is screened, and the tent is screened by the hotel on three sides. The view from Jupiter View Drive impacts the neighbors' view from across Jupiter View Drive as noted above. The Applicant requests to keep the frame of the tent up and remove the top panels when not in use for an event during the Summer installation period. The Applicant requests to keep the tent top panels and walls installed during the Winter installation period. Pursuant to the IBC and the IFC, a temporary structure can be installed for 180 days and requires an operational (fire) permit.
 - l. Noise. Condition of Approval 1 - Outdoor Uses must comply with the Park City Noise Ordinance. Wedding events in the courtyard have amplified music. All noise is directed inward rather than toward the Parkview Condominiums. Since approval last year, neither the City nor the Hotel received noise complaints. The Applicant indicates that all activity in the courtyard is over by 9:45 PM and hotel quiet hours start at 10:00 PM. During the Winter, a heater is added to the tent to keep guests warm. The heater is screened from neighboring properties. No other mechanical factors are proposed for the tent.
 - m. Delivery and Service Vehicles. Complies – Delivery and Service Vehicles will operate as normal. The tent does not modify the operations of the hotel as related to deliveries, loading, or unloading.
 - n. Ownership and Management. Complies – The tent and all activity associated with the tent is managed by the Applicant.
 - o. Within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site. Complies – The Peaks Hotel is outside the Soil Ordinance Boundary and the Sensitive Land Overlay. The location of the courtyard is level and does not connect to any neighboring Structure.
 - p. Consistency with the Goals and Objectives of the Park City General Plan. Complies – The Peaks Hotel is located in the Park Meadows Neighborhood. It is significant to the Park City entryway corridor. Park Meadows is also the neighborhood with the highest population of full-time residents. The neighborhood has a high-quality aesthetic that the General Plan says should be preserved. The tent will be significantly shielded by the hotel to protect the entryway corridor and neighborhood appeal.
- 19. The Peaks Hotel has 135 parking spaces between the north lot, south lot, and parking garage.
 - 20. The Site has the following uses and requires the following number of Off-Street Parking spaces:

- Hotel, Minor and Major – 127 spaces
 - Meeting/Conference Space – 8.2 spaces
 - Temporary Structure (tent) – 4 spaces • Restaurant, Standard and Bar – 29 spaces
 - TOTAL – 168.2 spaces
21. LMC § 15-3-7 authorizes the Planning Commission to reduce parking requirements.
 22. The Applicant was approved for a reduction of 41 spaces in 2022. The Applicant is now requesting a reduction of 33 spaces because Versante on the Lawn is discontinued, and the Peaks Hotel is no longer utilizing the outdoor space for the restaurant.
 23. The Applicant conducted a parking study from July 7, 2022, to August 1, 2022. A count of parked cars was taken at every house, from 8:00 AM until 9:00 PM.
 24. The day with the highest average parking was Saturday, July 16 with an average of 84 parked cars.
 25. The day with the lowest average parking was Tuesday, July 26 with an average of 38 parked cars.
 26. Friday, July 8 at 6:00 PM was the only time to reach a parking capacity of 135 cars. The count dropped to 84 cars at 7:00 PM and increased to 129 at 8:00 PM.
 27. The Applicant uses the following strategies to regulate Off-Street Parking:
 - Two on-site bike racks (parking for 36 bikes)
 - Garage remains open to public for use during hotel invite-only events
 - Maintains a towing contract
 - “No Parking” signs and a painted red curb along the hotel’s side of Jupiter View Drive.
 - Security to manage traffic during hotel events
 - Signs directing parking to the garage entrance and south lot
 28. The parking study indicates that during peak summer season, there is sufficient Off-Street Parking available and the TDM plan is an effective parking mitigation tool.
 29. The Development Review Committee reviewed the proposal and finds it complies with the required standards.
 30. Staff posted notice on the City’s website and the Utah Public Notice website, and posted to the property on June 14, 2023. Staff mailed a courtesy notice to property owners with 300 feet on June 14, 2023.

31. *The Park Record* published a notice on June 14, 2023. 32. The review of the proposal and the public hearing was continued to July 26, 2023. The property was again noticed on July 12, 2023.

Conclusions of Law

1. The Application, as conditioned, complies with LMC § 15-1-10(E) Conditional Use Permit Criteria, LMC Chapter 15-2.14 Residential Development – Medium Zone, LMC § 15-4-16 Temporary Structures, Tents, and Vendors, and LMC § 15- 3-6(B) Parking Ratio Requirement for Non-Residential Uses.
2. The proposed Use, as conditioned, is compatible with the surrounding structures in Use, scale, mass, and circulation.
3. The effect of any differences in Use or scale has been mitigated through careful planning.

Conditions of Approval

1. The Applicant shall comply with Municipal Code Chapter 6-3 Noise, which establishes a maximum of 55 dBA from 6:00 AM through 10:00 PM.
2. New temporary or permanent signs shall require a sign permit.
3. Exterior lighting shall be Fully Shielded and cannot exceed 3,000 degrees Kelvin. Any exterior lighting shall be reviewed and approved by the Planning Department prior to installation. String lights are permitted year-round on decks, porches, and patios, but are not allowed in landscaping. Seasonal lights are permitted from November 1 to March 1 and must be turned off by midnight.
4. The Use shall not violate the Summit County Health Code, the Fire Code, or State Regulations on mass gatherings.
5. The Use shall not violate the International Building Code or the International Fire Code.
6. Installation of the tent for the Summer is limited to the last week of May to the first week of October, and cannot exceed 120 days.
7. Installation of the tent for the Winter is limited from the last week of November to the second week of April, and cannot exceed 120 days.
8. Only the tent frame is allowed to remain installed during the Summer installation. The applicant shall install the top panels one day before and remove the top panels one day after a Summer, private event.
9. At the end of the installation period, the frame must be dismantled and removed from the site.

10. A Fire Permit is required prior to installation of the tent and inspection by the Fire Marshall after installation every two weeks.
11. The tent shall not exceed 20 feet by 40 feet or 800 square feet.
12. Operation of the tent with expired permits from any applicable City Department may result in the CUP becoming void. Building and Fire Permits must be up to date to install and use the tent.
13. The Applicant shall submit a parking management plan to the Planning Director, which includes prioritizing the underground parking for hotel guests. If the Planning Director determines the Parking Plan is not managing the parking for all Uses on Site, including hotel, restaurant, events, and employees, the Planning Department will provide notice to the Applicant and they may be required to reduce attendance to an event, terminate programming, or create additional mitigation strategies to keep all parking on-site. If parking cannot be maintained on-site for hotel events, the Planning Director reserves the right to revoke this CUP.
14. The Applicant committed to and shall continue to provide guests with detailed information regarding underground parking and requirements for parking during hotel events. The hotel shall continue to operate its towing contract to ensure off-site parking regulations are enforced.
15. The Applicant shall provide an updated winter parking demand study for President's Day Week 2024 for review by the Planning Commission at the end of the Winter season.
16. The applicant shall return for review with the Planning Commission within four weeks of the end of the Winter season.

Commissioner Van Dine seconded the motion.

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

C. 395 Deer Valley Drive - Plat Amendment - The Applicant Proposes to Remove Internal Lot Lines to Create One Lot in the Residential - 1 Zoning District. PL-22- 05370.

City Planner, Jaron Ehlers reported that 395 Deer Valley Drive was located just beyond the roundabout, and within the Residential – 1 Zoning District. Planner Ehlers explained that the applicant's proposal was to create one Lot and remove internal Lot lines to allow for the creation of a new garage and relocate the existing driveway. It would also allow for a lower grade. He stated that the applicant proposed to move the driveway 40 feet to the west and reduce it from its current 19% grade to a 9% grade.

Planner Ehlers reported that the house was built in 1978, and was located 18.6 feet from the property line. The property line was the Heber Avenue unplatted Right-of-Way. Additionally, he stated that the house was 51.6 feet from the platted Deer Valley Drive Right-of-Way. He presented a graphic that illustrated the Heber Avenue ROW in red, and the Deer Valley ROW in

blue. He reiterated that the current driveway slope was 19 degrees, which was Non-Compliant pursuant to the current Code. He explained that in the R-1 Zoning District, there is a requirement for a 20-foot Setback for garages and a 15-foot Setback for the main dwelling. The Board of Adjustment ("BOA") approved a variance that allowed the garage Setback to be 4 feet from the property line. Planner Ehlers presented a diagram that depicted part of the existing streetscape. He noted the neighboring driveways were set lower on the respective properties and had flatter driveways.

Commissioner Frontero observed what the other homes had done and asked if the proposal was to build a garage that pulled it down towards the street. Planner Ehlers confirmed and stated the applicant's proposal would reduce the size of the driveway and reduce the grade. Commissioner Frontero asked if the garage would take up some of the vegetation that currently existed. Planner Ehlers reported that significant vegetation would be removed and he would address that later on in the presentation.

Chair Suesser asked if the driveway would be widened in addition to being moved 40 feet. Planner Ehlers stated the driveway would be widened. Planner Cawley added that the proposed driveway would be 15 feet at the entrance to Deer Valley Drive. It would then expand to the allowed maximum of 27 feet as it approached the garage.

Commissioner Frontero asked if the proposal would ultimately reduce the asphalt. Planner Ehlers reported that there would be an overall reduction of 120 square feet. Planner Ehlers reported that the Lot met the Lot Size requirements in that it was 8,437 square feet. The variance only reduced the Setback for the garage. Any other addition to the structure beyond the garage would have to meet the 15-foot Setback. He noted that retaining walls would likely be required as part of the construction of the new driveway. Any retaining walls that exceed 4 feet in the Front Setback would require an Administrative CUP.

Planner Ehlers also stated that the garage could not be larger than 18 feet in height. He reported that the applicant indicated that this property would be used for Nightly Rentals, so there were Conditions of Approval that require a Nightly Rental Business License that is renewed annually.

Chair Suesser asked Planner Ehlers to walk through the reduction of the Front Setback to 4 feet. Planner Ehlers reported that the reduced Setback was measured from the property line. In response to Chair Suesser's inquiry regarding Heber Avenue, Planner Ehlers explained that as part of the original platting of this area, Heber Avenue was platted but never built, and the ROW remained.

On behalf of the applicant, Marshall King, Alliance Engineering, reported that a portion of the new structure would be a garage, and a portion would be a pedestrian entrance, and would measure 30'10" wide.

Commissioner Shand asked Planner Ehlers to point out on the graphic the width of the driveway and garage, and the cut on Deer Valley Drive. Planner Ehlers explained that the top of the current driveway had a large turnaround area. The proposed driveway would not exceed the 27-foot maximum, and the garage would be larger than the driveway. He pointed out where planters would be installed to fill in the dead space.

Mr. King identified the location of the pedestrian entrance. He confirmed that stairs would be added to the side to be able to access what was now the current garage level and the house. The

current garage would be made into living space. Commissioner Shand identified the Lot line on the north side.

Planner Ehlers stated that the current LMC only allowed for a 14% slope, which made the current driveway Non-Compliant. Additionally, the maximum width of driveways was 27 feet. The proposal would result in a decrease of 120 square feet. The entrance would be 15 feet wide, and increase to 27 feet. He reported that the proposed amendment complied with the Code. Staff found good cause because it involved a Non-Conformity, would be consistent with previous plat amendments, and would improve traffic safety along Deer Valley Drive. Several of the neighboring Lots had gone through plat amendment processes to remove internal Lot lines. He referenced the Staff Report that identified three plat amendments that included specific development and architectural guidelines. Staff requested input from the Planning Commission on whether to include those as additional Conditions of Approval. He explained further that several Lots in the neighborhood had gone through plat amendment processes, and as part of those, various Conditions were added as identified in the Staff Report. Chair Suesser offered to review the Conditions.

Planner Ehlers continued by stating that no public streets or ROWs would be vacated or amended, nor would any easement be vacated or amended. The Engineering Department requested several Conditions of Approval. He referenced Condition of Approval 9 governing what would be required should Deer Valley Drive be expanded.

Condition of Approval 10 would require the applicant to obtain permits from the City Engineer before any construction in the two ROWs. He noted that Condition of Approval 11 required encroachment permits for any retaining walls, stairways, and any portion of the driveway in the ROW. Planner Ehlers commented that part of those ROWs became part of a parcel currently held by Summit County, so the applicant would need encroachment permits from the City and the County for construction within the ROWs.

Planner Ehlers mentioned Condition of Approval 12 which required the City Engineer to approve grading, utility, public improvements, and a shoring plan for any construction within the ROWs.

Planner Ehlers reported that the Forestry Board reviewed this proposal and requested Condition of Approval 13. He noted that the Forestry Board considered the two trees were dead. Condition of Approval 13 required that any Significant Vegetation that is removed as part of the construction of the new driveway must be replaced either on the applicant's property or on the unplatted ROW.

Chair Suesser asked if the dead trees needed to be replaced. Planner Ehlers reported that the applicant would be required to replace the dead trees. Chair Suesser asked if the Forestry Board weighed in on the healthy vegetation on the property and required that it remain.

On behalf of the applicant, Rob White reported that the Forestry Board did not tell the applicant that there was any healthy vegetation they wanted to be replaced, but the applicant intended to submit a full Landscape Plan that would cover the ROW up to Deer Valley Drive, and that would include the City approved plantings and irrigation requirements typical for a project like this.

Chair Suesser asked for more information about the Forestry Board's recommendations in response to this application. Planner Ehlers reported that the Forestry Board suggested the Condition of Approval that any removed Significant Vegetation must be replaced. The applicant

must also work with the Engineering Department in this regard. He added that the Forestry Board also requested the old driveway be re-vegetated.

Chair Suesser asked if the applicant understood whether the replacement of the dead trees was included in the Forestry Board's request. Applicant's representative White requested further clarification on whether they would be required to install a certain type of tree. He stated they had not received a specific direction as to the type of vegetation to replace any that is removed. Using the photograph, he believed the tree on the far left of the image would remain. He mentioned the utility boxes, and would likely not do a lot of different landscaping by those boxes.

Chair Suesser expressed particular concern regarding the vegetation on this site, and would not want the applicant to duplicate what the adjoining neighbors did with their properties. She noted the neighbors essentially had no vegetation between the homes and the street. She added they were trying to avoid it looking like a parking lot.

Applicant representative White explained they were at the schematic phase and once the internal Lot lines were removed and they could lower the garage to make the driveway usable, they could then get more specific regarding the landscaping. He understood they would be removing the dead trees, and the landscaping would definitely be a part of the further development of the project.

Planner Ehlers understood the Condition of Approval as requiring replacement of the Significant Vegetation, even if it were dead Significant Vegetation. Commissioner Frontero agreed with Planner Ehlers' interpretation of Condition of Approval 13 and felt that Chair Suesser's concerns were covered by that Condition. Planner Ehlers added that any landscaping plan goes back to the Forestry Board for approval.

Commissioner Van Dine referenced the Conditions of Approval for the neighboring properties, and specifically referenced 415 Deer Valley Drive that stated, "The 'no-build' areas shall preclude the owner from constructing building fences or similar structures." She asked what would be considered the 'no-build area' on this property.

Planner Ehlers explained that for that property, the rear area was very steep, but the property was located outside the Sensitive Land Overlay ("SLO"), therefore they created a 'no-build area' for 415 Deer Valley Drive. For 505 Deer Valley Drive, they instead conditioned it on a 70-foot Setback.

Commissioner Van Dine noted that the applicant's property already encroached on the Rear Setback with the deck. Planner Ehlers agreed but noted that the deck was compliant with the current Setback.

Commissioner Johnson liked the Conditions from 415 Deer Valley Drive so there would be a 'no build' area on the rear part of the parcel, and they could still include the existing deck. He would support a similar plat note for this application. Commissioner Van Dine agreed.

Commissioner Shand observed that the existing driveway extended across City-owned and County-owned property. He asked if it did so with a Right-of-Way or encroachment agreement. Planner Ehlers was unaware whether there was an encroachment agreement.

Mr. King posited there likely was not an encroachment agreement, because when the house was built in 1978, the City was not concerned with encroachment agreements for putting a driveway into a street.

Commissioner Shand assumed that the existing configuration of the driveway was such to reduce the grade to 19% instead of being steeper if it were taken off of Deer Valley Drive. Engineer King stated it was 19% now, and the new driveway would be at a 9% grade. Planner Ehlers added that at the bottom it was essentially a shared driveway with the neighbor. Mr. King stated that as it existed currently, it was not an easy driveway to back out, and it was pretty tight to allow a vehicle to pull out in a forward direction. Planner Ehlers clarified that the new driveway would no longer be shared with the neighbor.

Commissioner Van Dine asked about the property line with 415 Deer Valley Drive and how that would impact re-vegetation. If the applicant were to re-vegetate the existing driveway, Chair Suesser wanted to know the distance between the property line and the beginning of the new driveway. In other words, she wanted to know how much of the existing driveway would be re-vegetated.

Mr. King responded that it would likely be around 10 feet. He explained that if you extended the east property line toward the street, they would probably have about 10 feet from the edge of the new driveway to the property line that was directly in front of 395 Deer Valley Drive.

Commissioner Van Dine asked if the pavement would remain in front of the stairs at the shared part of the driveway. Mr. King explained that area where the neighbor's stairs come down was located in the Heber Avenue ROW. He added that while normally you would landscape directly in front of each property; however, this area happens to be the widest portion with the greatest distance between the residents and Deer Valley Drive. He noted that a good portion of the existing driveway was located in front of the neighbor's property, and it was an issue of whether the neighbor does anything with that land.

Commissioner Van Dine wanted to know how much cement would remain and how much the applicant would be responsible to re-vegetate. Mr. King stated the applicant would remove a good portion of that because right now the driveway came across and in front of the neighbor's property but it was within the Heber Avenue ROW. He stated that all of the asphalt would be removed and would be re-vegetated, but as far as what the neighbors would do would be a different story. He explained that they did not show the area at the stairway on the existing conditions map because it was located on the neighboring property. He noted that the bottom of the 415 Deer Valley Drive steps was at about the center of the neighbor's property.

Mr. King confirmed that the landscaping next to the stairs in the photograph was on the neighboring property, 415 Deer Valley Drive. There was discussion of the image showing where the new driveway would be constructed.

Chair Suesser asked what the neighboring property on the other side looked like because she wanted to see the impact of the proposed driveway. Commissioner Sigg asked if the existence of the current driveway going over into the ROW in front of the neighboring house would create any type of prescriptive easement. City Attorney Harrington stated there would not be a prescriptive easement within the City's ROW. He was unsure whether there was a permissive or express use agreement over the adjacent property, but an owner could not create prescriptive use over a City ROW. Commissioner Sigg felt there was nothing that would force the adjacent

owner to correct the asphalt in that location, and they were just hoping the adjacent owner would not want any remaining asphalt in that area. City Attorney Harrington agreed.

Chair Suesser asked if the proposed garage would be as close as the neighbors' to Deer Valley Drive. Planner Ehlers stated it would still be set back and demonstrated the location of the garage and driveway on an image. He pointed to a box that would be removed. Commissioner Sigg asked about the purpose of the hammerhead where it indicated "relocate electric box." Planner Ehlers reported that the planter was noted because it would exceed the allowed driveway length.

Commissioner Sigg clarified that he was asking why the driveway showed a flare-out at Deer Valley Drive. He specifically referenced the blue and red drawing and the area where it states, "relocate electric box." He also referenced elevation marker 7059.1 and asked why the "install planter" line did not extend down Deer Valley Drive.

Mr. King explained the primary reason for the flare-out was to keep it from being greater than 27 feet, and by the time the driveway would come down it narrows to meet the width requirement. If they did not include the planter, then the driveway would be greater than 27 feet. He added that they need approximately 12 feet for the entrance, and they were at 12 to 14 feet.

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

Chair Suesser inquired about the size of the Lot by removing the Lot line. Mr. King stated the square footage of the Lot would be 8,437 square feet and the width of the Lot would be 56.25 feet. Commissioner Shand understood that the Lot lines were not being adjusted; rather the application only sought to move the driveway. Mr. King explained the proposal was to remove the Lot lines to unify this into one Lot of record. He explained that if this had been done before any construction took place, they probably would not be here. They have to remove the Lot lines, and someone could have done it years ago without any planning. Based on his experience, the removal of the Lot lines typically involves those who plan on doing something within a year or two.

Commissioner Johnson asked if the proposed Plat Amendment needed further crafting to ensure that the hillside portion of the new Lot would have some sort of protection. Planner Ehlers asked if they wanted to make clear where they wanted the 'no build' area to start.

Commissioner Johnson explained that they requested a plat note that would essentially provide a 'no build' area on a section of the new Lot. He wondered if they had to define where that was and add that to the plat note, or how they wanted to calculate it. He asked what the applicant would be willing to allow. He noted the pitch was pretty steep. Mr. King stated that after a day of skiing, one would not want to go up there even without snow on the steps.

Commissioner Johnson asked if they could delineate the area of the removed north/south Lot line as the 'no build' area. Commissioner Johnson also asked about snow storage since it was all being stored in the Summit County or Park City ROW. He wondered whether they wanted to add to Condition of Approval 11 to read, "Encroachment Permits are required for retaining walls, stairways, driveways, and snow storage in the platted ROW." Planner Ehlers responded that the City Engineer did not have interest in a dedicated snow storage easement, but noted that all storage would be on County property. Commissioner Johnson agreed to leave Condition of Approval 11 as is.

Mr. King sought clarification that the Commission wanted a 40-foot 'no build' zone from the back of the Lot toward the street. He noted the total length of the Lot was 150 feet. Assistant Director Ward reported that the 415 Deer Valley plat included a 'no build' area as a 60-foot Setback from the rear Lot line.

Commissioner Johnson asked the applicant if they were amenable to a 60-foot 'no build' area, in order to be consistent with 415 Deer Valley Drive. Applicant's representative White stated it was a tough call to make since they were not the owners of the property. He felt better about 40 feet. Commissioner Van Dine was agreeable with the 40-foot 'no build' area. Commissioner Hall had no further comments. Commissioner Sigg was comfortable with it. Commissioner Frontero understood that the idea behind the 'no build' area was to protect some of the land in the back.

Mr. King noted that the slope is likely 40 to 50 percent and set further back on the property. He noted that anything over a 30% slope required a Steep Slopes CUP. Commissioner Sigg stated that it was unlikely there would be an addition in the back of the property due to its' steepness. He noted they were trying to hold the driveway to a certain grade, which would force everything down. Assistant Director Ward clarified that the home is not in the Historic Residential Zone, so it would not require a Steep Slopes CUP. Planner Ehlers added that the Sensitive Land Overlay starts at the top of the property.

Commissioner Van Dine reiterated her position that the 40-foot 'no build' area was reasonable. There was consensus among the Commission.

MOTION: Commissioner Van Dine moved to forward a POSITIVE recommendation for City Council's consideration on August 22, 2023, for 395 Deer Valley Drive – Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as outlined in the Draft Ordinance, as amended:

Findings of Fact

1. The property is located at 395 Deer Valley Drive in the Residential – 1 Zoning District.
2. The property is in Block 65, Amended Plat of Park City Survey, and consists of all of Lots 9 & 26, the westerly 18.75 feet of Lots 8 & 27, and the easterly one-half of Lots 10 & 25.
3. The Summit County parcel tax ID is PC-518-A-3.
4. The existing Single-Family Dwelling was built in 1978.
5. The Applicant proposes to remove all internal Lot lines to allow for a remodel of a non-historic, Single-Family Dwelling, including relocating the driveway for compliance with grade, and a new garage addition.
6. The current driveway has a slope of approximately 19%, which exceeds the maximum of 14% required by LMC § 15-3-3-(A)(4).

7. The proposed driveway will have a slope of 9% and will move 40 feet east along Deer Valley Drive.
8. The existing Single-Family Dwelling is 18.6 feet from the property line and 51.6 feet from the platted Deer Valley Right-of-Way.
9. Parcel PC-519-R-X, owned by Summit County, fronts the property and is a portion of the historic Heber Avenue Right-of-Way.
10. On June 20, 2023, the Board of Adjustment granted a Variance reducing the Zone's required 20-foot Front Setback for a Front Facing Garage to four feet.
11. A Single-Family Dwelling and Parking Areas with four or fewer spaces are Allowed Uses in the R-1 Zoning District.
12. A Single-Family Dwelling must provide two off-street parking spaces. The Applicant's proposal will provide four Off-Street parking spaces, two in the garage, and two in the driveway.
13. The property contains 0.194 acres or 8,437 square feet.
14. The Front Setback requirement is 15 feet/20 feet for Front Facing Garages. The Variance reduces the setback for the proposed garage to four feet.
15. The Rear Setback requirement is 10 feet. The existing Single-Family Dwelling is 93 feet from the rear Lot line. A standalone composite deck with a metal railing is seven feet from the rear Lot line.
16. The Side Setback requirement is five feet on each side. The existing Structure is 7.9 feet from the west Lot line and 10.9 feet from the east Lot line.
17. Building Height cannot exceed 28 feet in the R-1 Zoning District.
18. The existing driveway is 1,265 square feet and the proposed driveway is 1,145 square feet. The Applicant's proposed driveway will decrease the site's impervious surface by 120 square feet.
19. The proposed driveway is 15 feet at Deer Valley Drive and increases to a width of 27 feet at the proposed garage addition.
20. There is Good Cause for this Plat Amendment because it resolves a non-conformity, is consistent with previous Plat Amendments, and improves traffic safety along Deer Valley Drive.
21. No Public Street or Right-of-Way is vacated or amended.
22. No easement is vacated or amended.

23. The Development Review Committee met on January 3, 2023, reviewed the proposal, and did not identify any issues.
24. The Forestry Board met on July 6, 2023, reviewed the proposal, and has Conditions of Approval.

Conclusions of Law

1. The Plat Amendment is consistent with the Park City Land Management Code, including LMC Chapter 15-2.12, Residential (R-1) Zoning District, and LMC § 15-7.1-6, Final Subdivision Plat.
2. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
3. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The Planning Department, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the Conditions of Approval, prior to recordation of the plat.
2. The Applicant shall record the plat at Summit County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this Plat approval 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 plat shall note that fire sprinklers are required for all new construction.
4. In order to use the property as a Nightly Rental, the Applicant must obtain a business license from the City for the Nightly Rental Use and shall renew the license annually or else the Use is terminated.
5. A Variance was granted reducing the Front Setback for the Garage to four feet. Any other addition to the Structure is required to comply with the Front Setback of 15 feet.
6. The Applicant shall obtain an Administrative Conditional Use Permit for retaining walls that exceed four feet in height in the Front Setback prior to applying for a Building Permit.
7. Fences, walls, retaining walls, uncovered stairs leading to the Main Structure, decks, porches, roof overhangs, eaves, cornices, sidewalks, patios, and pathways in the Front Setback shall comply with LMC § 15-2.12-3(C)(1-7) Front Setback Exceptions.

8. The new garage shall not exceed 18 feet from Existing Grade.
9. If at some point in the future, Deer Valley Drive is widened, or re-aligned, the Applicant is responsible for the removal of retaining walls, stairs, and/or the driveway at the property owner's expense and in an expeditious manner (within 90 days of written notice).
10. The Applicant shall obtain permits for construction in the Right-of-Way from the City Engineer prior to issuance of a Building Permit.
11. Encroachment permits are required for retaining walls, stairways, or driveways built in the platted Rights-of-Way and Summit County Parcel PC-519-R-X.
12. City Engineer review and approval of all appropriate grading, utility installation, and public improvements is a condition precedent to building permit issuance. An approved shoring plan is required prior to excavation.
13. Upon application of a Building Permit, the Applicant shall provide a landscape plan consistent with LMC § 15-5-5(N), showing replacement of all removed Significant Vegetation. If the Applicant cannot replace the same number of plants removed from their property or the Right-of-Way, then the Applicant shall return to the Forestry Board for further review. The Applicant shall receive permission from the City Engineer and Summit County prior to installing any new vegetation in the unbuilt, platted Right-of-Way or the Summit County-owned parcel.
14. Remodels and Additions shall comply with the Land Management Code and International Building Code in effect at the time of Building Permit application.
15. Prior to the issuance of a building permit, a Construction Mitigation Plan must be submitted to the Building Department for review by the Building, Engineering, and Planning Departments for final approval.
16. A plat note shall be included that provides for a 40-foot 'no build' area running along the area of the removed Lot line from the back of the Lot towards Deer Valley Drive. The 'no-build' area shall preclude the owner from constructing buildings, fences, or similar structures. The 'no-build' area shall be kept in its natural state and no vegetation from this area shall be removed or introduced and the area shall remain un-irrigated so as to prevent erosion.

Commissioner Johnson seconded the motion.

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

- D. Land Management Code Amendments – Lot Combinations – The Planning Commission Will Review a Pending Ordinance on Lot Combinations for Residential Development in the Historic Residential – 1, Historic Residential – 2, Historic Residential Low-Density, and Historic Residential Medium Zoning Districts. PL-23-05655.**

Chair Suesser announced that it was the consensus of the Commission that this item deserved a lot of time and attention. Due to the length of this hearing, they would not have time tonight for a thorough discussion. The Commission proposed continuing this item. Assistant Director Ward stated it was publicly noticed for a public hearing on August 23, 2023. Chair Suesser stated the Commission would like to maintain that date.

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

MOTION: Commissioner Van Dine moved to CONTINUE Land Management Code Amendments – Lot Combinations, and the public hearing thereon, to August 23, 2023. Commissioner Frontero seconded the motion.

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

7. ADJOURN

The meeting adjourned at approximately 9:10 p.m.

Approved 08.23.2023