

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JULY 26, 2017

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Steve Joyce, Melissa Band, Preston Campbell, John Phillips, Laura Suesser, Doug Thimm,

EX OFFICIO:

Planning Director, Bruce Erickson; Francisco Astorga, Planner; Tippe Morlan, Planner; Hannah Tyler, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Vice-Chair Joyce called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioners Strachan, who was excused.

ADOPTION OF MINUTES

July 12, 2017

MOTION: Commissioner Phillips moved to APPROVE the Minutes of July 12, 2017 as written. Commissioner Suesser seconded the motion.

VOTE: The motion passed. Commissioners Band and Thimm abstained from the vote since they were absent from the meeting on July 12th.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

There were no comments, announcements or disclosures.

WORK SESSION

Proposed amendments to Title 6, Chapter 3 of the Municipal Code regarding Park City's Noise Ordinance to minimize conflicts in neighboring commercial and residential zones and other technical updates.

Director Erickson stated that the City Council asked the Staff to update the Planning Commission on the proposed noise ordinance amendments since both the Planning Commission and the City Council are concerned with Code enforcement issues and neighborhood compatibility. He clarified that it was advisory only, and the Commissioners could make recommendations and provide input to the City Council based on what they heard in the presentation, but it would not be a binding resolution.

Michelle Downard, Deputy Chief Building Official, stated that they were before the Planning Commission this evening as a courtesy to receive input and have a discussion regarding noise ordinance amendments that the Staff was proposing to be considered. It was also an opportunity to have an additional public hearing and listen to public input. Ms. Downard encouraged feedback and recommendations to take back to the City Council for action on the Code change.

Ms. Downard reported that the noise ordinance amendments were created as a result to add specificity and ability to enforce without prosecutorial concerns. She noted that Tricia Lake, the City Prosecutor, would discuss that in detail later in the presentation.

Ms. Downard stated that noise ordinances in general are a common concern and issue for local jurisdictions. Utah specifically has a disturbing the peace State law which says that local jurisdictions have the ability to adopt their own noise ordinance. Therefore, it varies from jurisdiction to jurisdiction, and each have the ability to cater to the particular needs of that jurisdiction. Ms. Downard remarked that Park City has tried to take advantage of that opportunity and the ability to write their own ordinance particular to this jurisdiction, and to consider all of the uses in town and the enforcement abilities.

Ms. Downard stated that with population growth and density, development and a national growing trend of mixed use buildings, there is less separation between uses and activities and the potential sources of sound increases, which compounds the potential for noise conflicts. It is a general issue that applies throughout the nation, and not just Park City. The noise ordinance can be utilized as a tool to address the conflicts. In Park City they have seen concerns in the past regarding conflicts and different expectations between residential areas and business areas, and that is something they will drill down on a little more as they get into the actual verbiage of the ordinance.

Ms. Downard remarked that when they looked at the amendments, they considered not only the constitutionality of this project, but they saw it as an opportunity to talk about where they have had concerns between districts that are commercial versus residential. They also talked about the potential of addressing the fact that noise tolerance can be determined by many factors. Whether or not someone will be concerned and/or

frustrated enough to call and make a complaint regarding noise is impacted by many factors, including the time of day, the place or the zone, and the manner of the noise. How loud, how frequent and how long it lasts. All of those were considered and the intent was to look at everything holistically when they adopt the ordinance and talk about the criteria.

Ms. Downard emphasized that enforcement is key. The ordinance is only as good as the enforcement, and the Staff will be recommending an enforcement pilot program if this noise ordinance moves forward.

Sgt. Penrod with the Park City Police Department presented a trend analysis prepared by one of their tech specialists on disturbing the peace in their jurisdiction. The analysis showed what the trend has been and what it is projected to be over the next couple of years. It also showed the current disturbance of peace calls. Another slide was a breakdown of the City in different sectors for the calls. The next slide showed the rate and location. He pointed out that the red/orange/yellow areas on the map indicated the majority of calls. The lower call volume was identified in blue. Sgt. Penrod remarked that the analysis showed that this year would be the lowest year for disturbing the peace calls, and the trend shows that it will continue to go down. He also presented a breakdown from 2017 for disturbing the peace calls, which showed that most calls occur between 10:00 and 3:00, with the majority of calls coming in from 10:00 to 11:00, and predominantly on the weekends. Sgt. Penrod presented another slide showing the comparison with 2017 versus 2016 and 2015. He reiterated that the overall trend was showing that they were lower and would continue to be lower. From January to July of this year there were 141 reports, which is 26 less than 2016 and two more than 2015.

Sgt. Penrod presented data from the last two years showing that the most common months for complaints has been January and March, with February being at the top as well. He emphasized that 2017 could potentially be the lowest year of disturbing the peace in the last two years.

Commissioner Thimm asked if there was a reason for the trend to lower levels. Sgt. Penrod was unsure why the trend was going down. Based on his experience, it typically differs from the actual trend or what the analysis shows. He clarified that this was only for disturbing the peace. They take other calls related to disorderly conduct or other complaints that might be a noise disturbance but it is reported differently. Sgt. Penrod was unclear on whether part of the trend was a change in how dispatchers are logging the calls or if the overall trend would naturally decrease.

Vice-Chair Joyce referred to the slide showing the 2015 and 2016 trends. He did not think there was much difference between the trends; and pointed out that 2015 and

2017 were almost identical. In his opinion, it did not look like they were trending down. Sgt. Penrod pointed out that it was a short period of time for the analysis. He assumed the reporting was not showing the complete trend on the slide. Sgt. Penrod offered to clarify it with more data from the analysis. Vice-Chair Joyce recommended that they actually show a trend if it is important to the argument.

Assistant City Attorney Tricia Lake, stated that one of the primary impetus for viewing the ordinance was to assess the constitutionality of it. The City did something similar with the sign code last year. Ms. Lake stated that in assessing the constitutionality of the noise ordinance, it appears that certain aspects of it could either be viewed as overbroad or vague. She explained that an overbroad ordinance is an ordinance that can impede an individual's right to express themselves under the first amendment. In addition, they look at vagueness, and whether the ordinance is drafted in a way that it communicates to citizens what actually is prohibited, and whether it is easy for law enforcement and code enforcement to understand how to enforce it. Ms. Lake remarked that they look at overbroad and vagueness to assess whether or not the ordinance would withstand constitutional scrutiny.

Assistant City Attorney Lake stated that in reviewing this ordinance they identified multiple aspects of the ordinance that could be amended to better insure the constitutionality of our ordinance. Those were delineated in the Staff report. Ms. Lake stated that adding more specificity to the ordinance allows those being governed to understand what is prohibited. If the specificity enables law enforcement and code enforcement better ability to investigate and enforce the ordinance, it increases the constitutionality of the ordinance. They have done that in this case.

Assistant City Attorney Lake reported that a standard was established to resolve disputes in different districts. She presented a slide showing the part of the ordinance that increases that specificity. They also delineated that if there are two zones in proximity to each other, the limit of the least restrictive use shall apply. For example, if a residential zone and a commercial zone border one another, the least restrictive use would apply. In this scenario, the 65 decibels for the commercial zone bordering a residential zone would govern.

Assistant City Attorney Lake presented a slide showing examples of different decibel levels for certain items to give the Commissioners an idea of what noise creates a certain decibel level. Ms. Lake stated that there is a correction for duration of sound, which means when there is a loud sound, the measurement period is still ten minutes; however, they take a one-minute measurement out of that ten minutes and if the decibel levels are exceeded by 15 decibels it would be a violation. The louder the sound the shorter the measurement time frame. The table also included relief from

noise restrictions and an added exemption. The relief does not change and it still allows the Chief of Police and the Building Official to grant that relief for special events, community or private functions, and for certain building issues. There is a specific protocol for those individuals to do that. The exemptions remain the same. The only addition is that they added an HVAC system to those exemptions.

Commissioner Band had questions regarding the approved HVAC system. Ms. Lake replied that it would have to be approved by the Planning Department. If it is approved, it would be an exception. Director Erickson explained that people are allowed to have an HVAC system and there is an exemption for side yard setbacks, if that was approved, the neighbor could not call in a violation on the HVAC system. However, if owner put it in without approval, the neighbor could call in a complaint and the owner would be subject to the noise ordinance.

Commissioner Band understood that HVAC systems are noisy, but she did not believe they were in the nuisance category. Director Erickson pointed out that the exemption was not just for residential. It would also apply to Main Street, the compressors behind Fresh Market, or the air handling system at Eccles and at the hospital. If the baffling system is approved, they are exempted. If the City did not approve the baffling system or it was poached in, enforcement action could be taken.

Vice-Chair Joyce commented on some of the older, louder air compressors. He thought 50 decibels was fairly quiet; however, if one is running five or ten feet from a window, it would exceed the threshold at night. Ms. Lake thought it was important to note that the difference between 60 decibels and 50 decibels is half. Vice-Chair Joyce understood, but he thought 50 decibels was still low at night. He thought HVAC system was a big exemption that would show up a lot if they walked around and measured them.

Ms. Downard explained the Joint Enforcement Pilot Program and noted that the description Ms. Lake gave addresses the verbiage change within the noise ordinance in the Code. However, in the end the key will be enforcement. When they talk about any kind of Code changes, whether or not they have any implications on practical enforcement and a standard across the City, there is going to be an education component and an enforcement component. If Code Enforcement Officers are not available 24/7, the Police Department is always available to respond to concerns. Ms. Downard stated that whenever they look at this type of Code amendment they want to make sure they will be applying it consistently. For that reason, the Staff was recommending a Joint Enforcement Pilot Program. It would be a three-month program intended to do cross-training. A Code Enforcement Officer and an employee from the Building Department is going to be working a shift with a uniformed police officer, and

the dates and times will be staggered to get a sampling of what is happening around town and which noise concerns are identified. Any concerns identified will be discussed and brainstormed as far as the appropriate mechanisms for enforcement. Between different staffers there are different methods of enforcement, whether it would be administrative citations, criminal citations, or verbal warnings for violations that are not egregious. Ms. Downard reported that the Staff was recommending that the pilot program be done in conjunction with any Code changes that may come about.

Ms. Downard stated that the ultimate goal will always be for compliance. Park City has a strategic code enforcement based approach. They will proactively enforce any kind of noise concerns, particularly as a result of a new ordinance; however, it will be education based to the extent reasonable, with an escalation of enforcement action as appropriate as well. If there are blatant violation and/or repeat violations, they recommend maintaining that discretion with the enforcement officers to be able to apply whatever enforcement action they think is appropriate for a specific situation.

Ms. Downard commented on other enforcement considerations. Whenever they talk about something as large scale as a noise ordinance that pertains to the entire City, there will be advantages and disadvantages, and voices from different points of the spectrum. They have heard input from those who want more leniency and from others who do not want to be disturbed and want to maintain their quality of life and a level of peaceful living. Ms. Downard stated that the Staff tried to take those comments into consideration to keep a reasonableness factor in Code enforcement. It goes back to the conflict of what is reasonable between a commercial use in a residential area and the expectations, and trying to maintain a balance between those interests.

In addition to holding a public hearing, Ms. Downard encouraged the Planning Commission to provide input on whether or not they were moving in the right direction, and whether or not they supported the proposed noise amendment.

Vice-Chair Joyce opened the public hearing.

Tim Herd, a resident at 4 Silver Queen Court, stated that his west exposure is directly on to Rotary Park. He has made several complaints in the past about noise from Rotary Park, and last week he presented his public input to the City Council about the problems with noise in City Park. The City Council told him that they were looking into it, starting with the Planning Commission. Mr. Herd submitted a copy of his notes for the record. Mr. Herd stated that right now the City has easily understood rules and regulations about noise. The problem is that they were not fully understood by Park City employees or by the Park City PD. He noted that Section 6 says that if you are in a public place, such as Rotary Park, and you are 50 feet from it and you can hear what's

going on in Rotary Park, it is too loud. He lives over 100 yards from Rotary Park and he can pick out the noise, and sometimes he can pick out the lyrics. Bandstands are set up, and there is amplified music which Section 6 prohibits. Mr. Herd states that when he calls the police to complain, an officer would come out and tell him that those people have a permit. Mr. Herd would reply that they have a permit to be in Rotary Park, but they do not have a permit to make noise or play amplified music or other things that can be heard. Mr. Herd clarified that his concern was only from a residential standpoint. It is important to him and to everyone who lives around Rotary Park, and presumably all the other parks. He thought they needed to preserve the ability of the ordinary citizen to say this is too noisy, to call the Building Department or the PD and to have an officer respond and ask people to turn off their music.

Rob Slettom, a resident at 55 Thaynes Canyon Drive, stated that there were 700 people when he first moved to Park City. Mr. Slettom commented on a newspaper article that caught his interest. He felt they should not lose sight of the fact that Park City is a resort community. He has seen things happen over past years where people start pushing to return to what it was like in their neighborhood. Mr. Slettom agreed with Mr. Herd that if music or amplified music is prohibited, it should be monitored and enforced. He read from page 93 of the Staff report regarding noise disturbance. "Any sound that annoys or disturbs a reasonable person or persons with normal sensitivities or that injures or endangers the comfort, repose, health, hearing, peace or safety of another person or persons". He asked how they could determine normal sensitivity in a person. Mr. Slettom thought they needed to be careful in crafting the language. He noted from the presentation that the amount of complaints had gone down, which is positive. Mr. Slettom was unsure how the new ordinance compares with the old, but it needs to be given careful consideration. He believed there was a fine balance between business and residence, the commercial activities, the resort community and the nature of a resort. People who come into this area have different expectations. Mr. Slettom stated that many years ago the real estate community would show a VCR video presentation about the resort aspect of the community and what to expect. He believes that sometimes they lose sight of that.

Stewart Gross, a resident at 820 Park Avenue, stated that he lives in the Rio Grande Building, and even though the developer put in terrific windows throughout the complex, when the refrigerated truck shows up at 6:15 a.m. by his bedroom window it is disruptive. In looking at this, and commercial has the lowest common denominator, it is much louder than a sewing machine. It is more like a jackhammer. Mr. Gross remarked that years ago when Park City tried to do the stop idling program there were issues with enforcement, but if the truck drivers would shut down the trucks while doing their deliveries it would help a lot. Mr. Gross pointed out that much of the discussion focuses on what happens after the siren rings at night, but his issue is before the siren

rings in the morning. He noted that many people who live along Main Street and Park Avenue feel the repercussions of the loading trucks early in the morning. They spend a lot of money to stay in those places and they should be able to enjoy a decent night sleep.

Ronnie Whitick, stated that he was representing Jesse Shetler, the No Name Saloon, Butcher's Chop House and Boneyard. Mr. Whitick remarked that it was not easy to come up with a blanket resolution to accommodate everyone's concerns. As the Planning Commission listens to the public, he hoped they would consider all these comments into their recommendation. He did not think there should be a blanket resolution for all the districts, especially the entertainment districts. Mr. Whitick recommended that the Planning Commission or those putting together a resolution meet with the business owners of Main Street to come together with a resolution.

Mike Sweeney stated that he spends a lot of time on Main Street, the Yard, and other areas in town doing sound measurements with respect to trying to stay in compliance with the Code. This document is a good start, but if they do not go through it line by line and understand every one of the definition in the document, there is no way to know what they will be approving. A 50 db level, a 65, a 60 does not mean anything unless they really know what they are comparing it against. Mr. Sweeney stated that he has done a lot of research and the implementation is not as practical as well as written. If they have to have a meter and do a sound test in 15 minutes, it is problematic that the sound will be the same during that period of time. Mr. Sweeney recommended that hire a sound expert that goes through every requirement and determine what it means from a sound point of view, and that the Planning Commission get to hear it and understand what they are approving. Just doing a summation and a 10,000-foot level of this detail is insufficient. He would like to take the time to go through each one of these items and make sure he can comply with what he does in permitting noise ordinance issues for events on Main Street and other locations. They talk about districts, but there are two different types of neighborhoods within a district. Mr. Sweeney pointed out that the Yard is in a commercial district, and they have a residential neighbor in the commercial district. This ordinance does not speak to that issue. Mr. Sweeney reiterated his request for the Planning Commission to have the opportunity to understand what they are going to approve and recommend to the City Council. He supports this amendment, but he wants to make sure they all know what they are doing.

Carol Fontana stated that she lives in Old Town and she is part of the commercial residential area. She has not had a large problem with restaurants, but her issue is with outdoor events and the arrival of the plaza with another stage space, with the Miner's Plaza and the Silly Market, as well as any other outdoor music venue. The hours are long for those performances. Ms. Fontana wanted to know the impact of 60 decibels at

ground level where the stage is once it is pushed up alongside the canyon walls, because at that point it changes from music to just noise. She had no idea of that issue had been considered. Mr. Fontana was pleased that the City was looking at amending the noise ordinance because noise pollution affects her quality of life the most.

Robert Wilcox, a resident at 693 Main Street, commented on things that have happened in the past. He agreed with Mr. Gross who talked about trucks early in the morning because it is very disruptive. Mr. Wilcox stated that back in 2011-2012 time frame an issue came up with lower Main Street, which is everything north of Heber. When Sky lodge was developed there was going to be a loading dock. As that time came to fruition, he noticed that the trucks came in earlier and earlier. The 7:00 a.m. curfew was eventually upheld and ever since that happened it has really helped the community. He is a Board member for the Town Lift and also the commercial end on Park Avenue, and it really helped. Mr. Wilcox stated that he was prompted to attend this meeting because there was a delivery truck on Main Street at 5:38 that morning making deliveries and making noise, and it could probably be heard to Park Avenue. Mr. Wilcox wanted it clear that a lot of work was done north of Heber to uphold the curfew. The 7:00 a.m. curfew is still in existence and he would recommend it for other parts of Park City.

Carol Fontana asked to make another comment. She stated that with the commercial businesses, the hours of operation for live music is not as long as the special events. The events with Arts Festival, Silly Market and other special events in the TMI parking lot are legally allowed and often begin at 11:00 in the morning and can go until 10:00 at night. That is a really long time for loud music and noise.

Michael Barille, Executive Director for the Historic Park City Alliance, stated that his group had not had time to review the detail of this ordinance. He had spoken with Ms. Downard earlier that day and he believed there would be opportunities as this moves through the process. Mr. Barille remarked that in the initial reading the HPCA did not see it as a major change from the status quo in terms of the standards in the ordinance. It is more about adding specificity and better enforcement and predictability in the way citations might escalate. They supported having consistency across the board. Mr. Barille noted that the Staff ended their presentation talking about leaving room for professional judgement, and he supported that as well. From the comments this evening, there is a big difference between someone who egregiously ignores the ordinance versus those who try to comply with the hours of operation for businesses and do things the right way. Mr. Barille stated that some of the members of the HPCA have complained about the road DJs on the street who destroy the normal ambiance on Main Street and the experience for outdoor diners and shoppers. He believed their membership would support having the ability to do selective enforcement when there is

a real issue. If businesses are routinely being cited due to random complaints about employees chatting on their break at 10:30 at night or taking out the trash at the end of a shift because it exceeds 60 decibels, that is the kind of judgement they trust the Staff will use in their enforcement. Otherwise, it could quickly become problematic for a successful retail shopping/entertainment/dining district. He would like that type of latitude for professional judgement to enter into the enforcement and how citations are issued.

Alicia Brown, a resident at 450 Park Avenue expressed gratitude for those who care for the City. Ms. Brown stated that she speaks logic. If she lives next to a farm she will smell manure. If she lives in Old Town, she will hear noise. She pointed out that historic Old Town was there before anyone in this room. Ms. Brown stated that she moved there because she loves a vibrant Old Town. It is Old Town and she expects to be woken up by noise. If the number of complaints are down, she was unsure why this was even being discussed. They want mom and pops on Main Street and she hoped they would leave those business people alone.

Vice-Chair Joyce closed the public hearing.

Director Erickson understood that the db level was not changed or reduced in any District. They only clarified them and then clarified that they would use the lower standard. Assistant City Attorney Lake clarified that it was reduced in residential districts. It was previously 65 db citywide residential and commercial anytime. The proposed ordinance breaks it down by residential and commercial, and by time. Director Erickson clarified that the biggest change was going from 65 to 50 decibels in the residential districts. He noted that when he sits at the back of the City Council meeting with his noise meter, it measures somewhere between 45 and 60 decibels, depending on who is speaking. Ms. Lake pointed out that it has to be measured for 10 continuous minutes.

Commissioner Suesser commented on the exemption for the HVAC system. She thought it would be helpful to clarify "approved" and whether it is approved by the Planning Director and in accordance with a particular section. She recommended clarification on what approval is required. Commissioner Suesser asked if a limit was considered in that exemption. She assumed the approval would come during the planning stage and not when it is installed. She was concerned that even if a unit was operating within the manufacturing limits and it was anticipated to emit a certain level of sound, depending on where it is located it could emit a louder sound. Commissioner Suesser did not think there was flexibility for the City to address that type of situation where the system is within the manufacturing specifications but it is louder than anticipated. She thought the exemption should be clarified.

Commissioner Suesser also thought they should give the historic businesses more time to review this proposal before they forward a recommendation.

Commissioner Thimm agreed with Commissioner Suesser in terms of the HVAC noise. He did not understand what approved meant. Who approves it and are there limits within that approval.

Director Erickson stated that all mechanical equipment is supposed to be screened to reduce the noise transmission. Commissioner Thimm stated that if a decibel level is associated with the amount of noise that might penetrate a property line, there is a point at which HVAC equipment would become obnoxious. He assumed the approval process would eliminate those cases, but there needed to be a better definition.

Commissioner Thimm asked if the proposed ordinance addresses vehicular noise, such as a delivery truck sitting in the public right-of-way making deliveries. Assistant City Attorney Lake stated that what was presented only represents the amendments and not the full ordinance. She would have to look at the existing ordinance in its totality. Commissioner Thimm thought it would be helpful to understand that as part of this process.

Commissioner Thimm commented on special events and asked if there was a condition where a special event such as Park Silly might be allowed to exceed noise levels. Ms. Lake answered yes. Ms. Downard stated that it varies for special events. Each is reviewed by the Special Events Department and approved on a case by case basis. They consider the duration and frequency of the event versus one-time events. The approvals maintain the ability to request a relief from the noise ordinance restrictions through the Chief of Police. Commissioner Thimm clarified that there was a definition in the standard so enforcement could be even across the Board. Ms. Downard answered yes. Ms. Lake remarked that part of what is proposed in the amendments was more specificity included in the relief for restrictions. The existing provision gave the Building Official and the Chief of Police the ability to grant relief from restrictions. However, the new provisions delineate with more specificity how that is to be done in terms of dates, times of day, location, sound pressure levels, etc. There is more specificity when someone requests this type of relief.

Commissioner Band agreed with Commissioners Suesser and Thimm. She liked the idea of having a sound cap because once the HVAC system is approved, if it falls into disrepair the owner could claim that it was approved. The not-to-exceed cap would address those situations. Commissioner Band thought the public gave great feedback, and many raised her concerns. She liked the table showing the decibel levels of

different items such as a chain saw, a sewing machine, etc. However, how can someone having a party at their house know and understand how loud they can be. She also wanted to know how that would be enforced if someone called the police. Assistant City Attorney Lake replied that noise complaints initiate from a complainant. The complainant would either call Park City Police or the Building Department. The initial complaint is based on a plainly audible disturbance. Either law enforcement or code enforcement would respond and investigate with an objective, which is the decibel level meter. The plainly audible is the subjective, and the sound level meter is the objective that verifies a potential violation.

Commissioner Band agreed that they should look at early morning noise. She personally would rather hear someone at 11:00 at night as opposed to 5:30 in the morning. Commissioner Band referred to the comment about the distance that sound carries. They have heard public comment on other items where people have talked about living on McHenry and hearing the noise from an outdoor deck on Main Street. She was unsure how that could be regulated, but it was something to consider. Ms. Lake remarked that the issue was somewhat addressed in the proposed ordinance in 6-3-9 when they discuss where a sound violation is measured. It is measured either at the boundary or at any point within the property affected by the noise. Referring to the citizen who talked about the canyon effect that amplifies the noise, she noted that this ordinance would allow the measurement to occur from that citizen's property.

Commissioner Campbell asked Sgt. Penrod if he personally felt that complaints were less than in the past. Sgt. Penrod reiterated that the trend analysis was over a short period of time. Personally, he responds to more disturbing the peace calls when he works nights versus when he works days. It was difficult to say whether or not he notices a trend difference. Commissioner Campbell asked how Sgt. Penrod felt about responding to a complaint with a sound meter and having an argument with a citizen about the number of decibels. Sgt. Penrod stated that depending on the call volume, ten minutes is a long time to dedicate to a sound problem. However, if someone complains, the police are more than willing to respond and resolve the problem appropriately. In terms of using a decibel meter, they would have to supply a meter to each officer to carry in their vehicles to properly address the sound complaint. He believed that was an issue that still needed to be worked out.

Commissioner Campbell understood that there was a list of the number of complaints received last year and they could use that list to calculate the cost of the time spent per call. He believed the cost would be higher than most people would want it to be. Sgt. Penrod pointed out that some calls take longer than others. When they are called out on a disturbing the peace complaint, most people turn down the music and there are no further problems. However, there are times when the police officer has to go back

repetitively. Depending on the situation, sometimes enforcement action is required. Commissioner Campbell thought the proposed amendments to the ordinance would make things more complicated for the police department instead of making their job easier. Sgt. Penrod stated that from a personal perspective and as a watch commander, he likes things to be simple and in layman terms so everyone is on the same page and it is easy to understand. When ordinances and laws have a lot of exceptions and rules it takes more time to determine the situation. He prefers simplicity. Commissioner Campbell understood the reasons for this because if there is a prosecution it has to be defensible. Sgt. Penrod agreed that Ms. Lake needs certain things to support a prosecution when the police bring her something to prosecute. Commissioner Campbell again expressed his preference for a much simpler process to address noise complaints.

Commissioner Phillips generally thought this had been well thought out. The amendments were primarily clarifying sections and not changing much of the existing ordinance, with the exception of the residential. Commissioner Phillips supported what was presented. He thought it would be wise to engage the local businesses before sending it to the City Council. He also suggested that they look at other parts of the section to see if there were other things that should be addressed in response to comments made by Mike Sweeney. Commissioner Phillips thought the Code changes would better define the section. He also liked the pro-active approach and how Code Enforcement has found ways to engage other departments with the Joint Enforcement Pilot Program. He believed that would better educate others and use the Staff as a resource. Commissioner Phillips remarked that the Planning Commission frequently discusses noise issues when they talk about mitigations for applications. The presentation this evening helped him better understand the Code, which will help him make better decisions when mitigating particular projects.

Commissioner Phillips stated that he also lives in Old Town and he sympathized and understood the comments made by the public. He has accepted it as part of the pros and cons of living in Old Town. Commissioner Phillips agreed that there is an echoing affect in the Canyon and often times it sounds like the garbage truck is on his street when in fact it is actually on Main Street. He suggested that someone assess Main Street in the early morning hours before this goes to the City Council.

Vice-Chair Joyce thanked the public for their excellent comments. He reminded everyone that the noise ordinance applies to all of Park City and not just Old Town. He thought they succeeded in making the ordinance more constitutionally acceptable. From the standpoint of simplicity, Vice-Chair Joyce thought it would be very difficult to explain the terms and measurements and what it all means. The examples of vacuum cleaners and coffee grinders are irrelevant in any type of public nuisance. Vice-Chair

Joyce thought it was good to have quantitative information, but he did not believe they were even close to the objective of having a clear sound ordinance that people can understand and know whether or not they are in violation. There are too many exceptions. He could not imagine a policeman sitting outside with a sound meter for ten minutes. Vice-Chair Joyce agreed with Commissioner Campbell that it was a waste of police time. He suggested that the Staff walk around town with a sound meter because it is important to feel very comfortable with the numbers. Based on the decibels proposed for residential, he believed lawn mowers would violate the sound ordinance, but based on the exception, someone could shoot off lawful fireworks at 1:00 a.m. He read the exception from Item D on page 97 to support his point. Vice-Chair Joyce commented on a number of the issues raised that the ordinance does not address. He favored the idea of what they were doing to provide additional enforcement. Vice-Chair Joyce did not believe this proposal was ready to go to the City Council unless they only wanted Council input. As presented, he was concerned that the ordinance would be ignored or it would create other problems.

Ms. Downard clarified some of the concerns raised by Vice-Chair Joyce. She explained that they had actually added more thresholds to the noise levels. Previously, it was 65 decibels across the board. The current chart showing 50, 55, 60, and 65 did not exist before. That specificity was added in addition to the noise levels that take into account the different scenarios and the totality of the situation. She agreed that 10 minutes is a long time to sit and measure with a decibel meter, but it takes into consideration things like a pure tone. It may not be as consistent or as loud as a bull horn or the backup beeper, but it varies and it is very repetitive and ongoing. She pointed out that the new ordinance takes into consideration the fact that those type of repetitive pure tones have a lower db level, while other items that have a different duration for the sound have some leniency with the db levels. The Staff believes the amendment takes away the broad brush stroke that was actually less reflective of specific circumstances in the past, and added additional scenarios and abilities to apply different enforcement standards.

Vice-Chair Joyce used the truck beeping as an example of a pure tone and explained why he still believed the method was broken based on his calculations. He thought the ordinance was confusing and it would create a number of unintended consequences. His simplest example for the City Council is that this ordinance would literally outlaw chainsaws and lawnmowers anywhere in Park City. He appreciated that the Staff was trying to fix what was already too vague, but it still needed more work before it becomes Code.

Director Erickson summarized their comments for the City Council. They would take forward the commentary about doing pro-active Code Enforcement before enacting the

Code. They need to be aware of unintended consequences such as prohibiting lawnmowers, chain saws and trucks backing up. They need to add clarity and simplicity to the ordinance, which was two parts. Address the technical underpinnings of what the law enforcement and the prosecutor needs to understand, and what the general public needs to understand. HVAC needs to be readdressed, primarily in terms of side yards and rear yards. There were also questions related to enforcement. Director Erickson stated that all of these comments would be forwarded to the City Council.

King's Crown Project located at 1201-1299 Lowell Avenue: Master Planned Development consisting of 27 single-family lots, 25 condominium units, 7 townhouses, and 18 affordable housing units; Conditional Use Permit for 4 multi-unit dwellings; and a Plat Amendment to subdivide all lots and units. (Application PL-17-03515)

Planner Francisco Astorga stated that this was a work session item. The Staff requested that the Planning Commission conduct a public hearing and continue this item to a future date.

Planner Astorga reported on an error in the notice letter that was sent July 12th. He had inadvertently put the incorrect date and the mistake was caught a week later. Another letter was sent to the property owners within 300 feet on July 19th with the correct date. Planner Astorga apologized for the error and noted that the applicant was aware of the mistake and that it had been corrected. He pointed out that it was not an issue for due process because the Planning Commission would not be making a final determination on the three applications this evening.

Planner Astorga reported on public input he had received late this afternoon. He was unable to forward a copy of that public input, but it would be provided to the Planning Commission prior to the next meeting.

Planner Astorga stated that since this was a work session, he requested that the Planning Commission ask questions and make comments throughout the presentation. He would give his presentation first, followed by the applicant's presentation, a public hearing, and input and direction from the Planning Commission. Planner Astorga noted that the applicant had submitted a significant amount of information and much of it was hyperlinked. It includes a total of five narratives; one for the master planned development, one for the condition use permit, one for the re-subdivision, one for compliance with the general plan, and one for the transportation master plan. In addition, the applicant had also submitted a landscape plan, a vegetation study, a geo-technical investigation report, a traffic study, a cultural survey, an environmental study, a mine-site study, a preliminary construction mitigation plan and a snow management plan.

Planner Astorga reviewed five exhibits as part of his presentation, beginning with Exhibit E on page 123 of the Staff report, which was the aerial location map. The site is located on Lowell Avenue adjacent just south of the Marriott Mountainside. The entire site was a combination of a triangular/rectangular area. The applicant had prepared a model which was on display. Planner Astorga noted that the model was only a quarter portion of the site. The applicant had not modeled the entire terrain. They only modeled where they wanted to build.

Planner Astorga reviewed another slide showing the configuration of the lots. Four lots of record would be built in the future in the form of a multi-unit dwelling. Multi-unit dwellings in the RC zone requires a conditional use permit. In addition, 27 lots were being proposed. Those lots were not modeled, but they are adjacent to the road, which is to be a private drive. Four lots throughout the site will be open space.

Planner Astorga remarked that the next exhibit was the survey. As indicated in the Staff report, in 1966 the platted unbuilt rights-of-way were vacated, and that land was conveyed over to that property owner at the time. It has since transferred over the various transfers. Planner Astorga noted that most of the rights-of-ways in Park City were over steep hills and they were never built. However, they were vacated. He believed that slightly less than 300 lots of record were platted in the Snyder's Addition to the Park City survey. The Park City survey and Snyder's addition are two documents recognized as subdivisions because they were in existence prior to the State of Utah adopting any subdivision rules and regulations. For that reason, most applications for Old Town are called plat amendments because they are amending that specific plat for that block and that lot.

Planner Astorga stated that four of these lots do not meet the minimum for a single family dwelling of 1875 square feet. He requested that the Planning Commission have that specific discussion in terms of the density of a multi-unit dwelling, as well as the density of a single family dwelling.

Planner Astorga reviewed the model and noted that Building A was the first building adjacent to the Marriott Mountainside. It houses 16 units. The units are affordable housing units and they will all be deed restricted. He stated that a preliminary review of the proposal showed that the applicant only needed eight units to meet their affordable housing obligation, based on the number of multi-dwelling units. Building A is approximately 16,000 square feet and it has four stories. The 18 parking spaces currently shown meets the requirement for the 16 affordable housing units.

Commissioner Band asked if the parking spaces would be assigned or unassigned. Planner Astorga replied that they are not currently assigned; however, he believed they could work with the applicant on assignment.

Rory Murphy, representing the applicant, stated that the parking spaces would likely be assigned. He continues to work with the City Affordable Staff to figure out the best plan for the building. Based on his experience at Silver Star, it is best to assign the parking spaces.

Commissioner Band explained the reason for her question. They were showing 1 one-bedroom unit, 10 two-bedroom units, and 4 three-bedroom units. If they only have 18 parking stalls for 15 condos, there would only be three stalls left. She assumed the three-bedroom units would get a second stall, with the exception of one three-bedroom unit. Mr. Murphy replied that that was their thinking, but they were still working on the plan. Planner Astorga pointed out that all of the parking spaces were in the underground parking garage accessed off of Lowell Avenue.

Commissioner Phillips asked about the type of affordable housing. Planner Astorga stated that the sizes are different and range from one-bedroom to three-bedroom units. Mr. Murphy remarked that most of the units are two-bedrooms.

Planner Astorga pointed to Building B/C on the model. He identified it as one building because they are connected at the foundation. Building B/C has 11 units with a total of 21 parking spaces. It meets the parking requirement. The building has two accesses off of Lowell Avenue. He noted that Buildings B/C, Building A and Building D require a conditional use permit for multi-unit dwellings.

Planner Astorga indicated Building D, consisting of 11 residential units with 22 parking spaces. It currently meets the parking requirements. All the parking for all the buildings is in the underground parking garage. Building D has one entry off Lowell Avenue.

Planner Astorga pointed to the townhouses, which is still considered a multi-unit dwelling in the RC District. However, the residential housing type is different. The townhomes are three or four stories. There are seven townhome units and 14 parking spaces. The Code requires two spaces per unit. The total area is approximately 30,000 square feet. Each unit has individual driveways.

Planner Astorga stated that the massing of the 27 units was not shown on the model. Four or five of those units will be accessed off of Lowell Avenue through driveways. The rest would be accessed from the private drive. The residential housing type would be a mix of townhouses and flats.

Commissioner Phillips asked Rory Murphy if they would build the 27 units or whether they were planning to sell the lots. Mr. Murphy replied that the current plan is to sell the single-family lots. However, they intend to build the affordable housing building and the townhomes in the first phase.

Planner Astorga reviewed the regulations in the RC District. He stated that the RC for single-family dwellings mimics the HR-1 District in terms of maximum building footprint, setbacks and height. The height of the houses would be restricted to 27 feet from existing grade. For multi-unit dwelling, the height is 35 feet from existing grade and there is a floor area ratio. Planner Astorga referred to Exhibit R on page 128 of the Staff report, showing the property area calculation. He indicated the area that the applicant, CRH Partners, currently control. The four different colors represented the zoning designation. The first two areas were not part of the SLO. It included the RC zone and the ROS zone. The back two areas were the same zoning designations, but they were also included in the Sensitives Land Overlay. Planner Astorga pointed out that the applicant wanted to build in the RC zone without the SLO, which was the area shown in dark gray.

Planner Astorga noted that the applicant has correctly stated that they are able to transfer some density from the SLO into this site. However, because he chose not to do that, the Staff had not done that analysis. He explained that a provision in the Code states that if someone has an area in the SLO that is 15-40% grade, they are able to transfer 25% of that area into the building area. For the next 40-100% grade, they are able to transfer another 10%. At 100% they get nothing. Planner Astorga reiterated that the applicant was not requesting that but he thought the Planning Commission should still discuss it.

Planner Astorga stated that he tries to keep the calculation for density simple. The RC zone has an area of 200,000 square feet. If the applicant wanted to build multi-unit dwellings and no single-family, he would have the right to the floor area ratio of 1.0, which would be approximately 200,000 square feet of development. However, the applicant only wants to build 81,000 square feet of development in Buildings B, C, D and the townhouses. The affordable housing in Building A is a requirement and it is not counted towards the density. Based on the calculation, the applicant is significantly below the maximum FAR of 1.0. The difficulty is that in looking at the density for the single-family dwellings, the Code requires that they simply meet the minimum lot area of one house, which is 1875 square feet. Planner Astorga explained his calculation based on the multi-unit dwellings, which resulted in a remaining density of approximately 60 residential units that could be built on site. The applicant was requesting to build 27.

In terms of direction, Planner Astorga asked if the Commissioners concurred that the Staff calculated the density appropriately. He needed their response before he could complete a full analysis and get into the specific details of the application.

Commissioner Thimm thought it was a logical formula. He had done the math that was presented in the Staff report and it appeared to be a logic conclusion.

Commissioner Suesser asked if the 81,000 square feet included the affordable housing units. Planner Astorga answered no. It would be Buildings B, C, D and the townhomes. Planner Astorga stated that he had also done the work to quantify the approximate square footage of the houses. It was a worst case scenario and he had not included the number in the Staff report. He had simply multiplied the building footprint by three. Commissioner Suesser thought it made sense.

Commissioner Phillips asked for the number. Planner Astorga replied that it was approximately 81,000 square feet. It was the maximum worst case scenario based on what they about building in the HR-1. Vice-Chair Joyce clarified that the scenario would be building a three story box at its maximum. Planner Astorga replied that he was correct.

Commissioner Phillips assumed a fair amount of the lots would have to come in as CUPs. Planner Astorga did not believe they would need CUPs because it was in the RC District. However, he would verify that and report back.

Planner Astorga stated that this was only an introduction to the project, and he requested preliminary and conceptual discussion by the Commissioners based on the massing model. Planner Astorga pointed out that some lots are eligible for duplex dwelling; however, the applicant has indicated that they would not advertise or sell any duplexes. They were willing to put a note on the plat saying that no duplexes are allowed. Commissioner Thimm noted that it could also be a condition of approval.

Commissioner Thimm wanted to know how deeply targeted the affordable housing would be in terms of the percentage of AMI. Mr. Murphy stated that he was still working with the City. They intend to do what the City needs, but at this point they were still unsure what that would be. Mr. Murphy noted that the mix of units could also change based on the need.

Vice-Chair Joyce remarked that the diagrams looked nice and showed a lot of green space, but it was missing 27 single-family houses. He recognized that the applicant would not have control over what the houses will look like, but for the massing

discussions he would like the diagrams and the model to show them because it completely changes the density picture from the street and how the buildings flow together. Vice-Chair stated that beyond the massing discussion, another thing they have been looking at with different proposals from both the City's affordable housing and other proposals, is when building a community such as this, there is living open space for the community. From what he could see, when the units are built there is no place that he would consider community space, aside from the acreage behind which is proposed to be preserved space. Planner Astorga clarified that Vice-Chair Joyce was talking about a project amenity.

Commissioner Phillips echoed the request to have the 27 houses masked in to show the bigger picture. Beyond that, he would eventually expect to see some type of model that shows how this project fits into the surrounding neighborhood. Commissioner Phillips thought another issue was the orientation of the street and how it has a different rhythm than the vertical lines going up and down the street. He was concerned about the cross canyon view and how it will look. He needed to see the bigger picture before he could determine whether or not he likes it.

Commissioner Phillips commented on the hammerhead turnaround. He was unsure how tall the retaining walls would be, but in the model it actually slopes down and he would like to see more detail in the model. He also requested dimensions on the lots so he could get a feel for the size of the lots compared to other Old Town lots. Planner Astorga believed the last exhibit in the Staff report would provide that information. He stated that he and Director Erickson were paying special attention to the grading/utility plan. The first objective was to introduce this project to the Planning Commission and to make sure the density was right.

Mr. Murphy stated that they were prepared to give a presentation if it was appropriate.

Commissioner Suesser commented on the access road aligning with 12th Street, and asked if it was a City right-of-way through there. She asked if it was still open and Mr. Murphy replied that it was. Planner Astorga clarified that it was an unbuilt City right-of-way. Commissioner Suesser asked if there was the potential for a staircase through there. Planner Astorga answered yes, subject to the City Engineer. The City Engineer controls what is placed on the unbuilt rights-of-way.

Commissioner Campbell suggested that the applicant read through the Minutes of other projects and look at the questions the Planning Commission asked and the information they requested. It would prepare them for the questions they will be asked and it would save time for both the applicant and the Commissioners if they could anticipate the information they would be asked to provide and come prepared with the answers. He

specifically suggested reading the Minutes for a neighboring project over the past six months because the neighbors would have the same objections and express the same concerns.

Mr. Murphy thanked the Commissioners for the opportunity to present this proposal. Also present this evening were his partners, Hans Fuegi and Chuck Heath, as well as the project architect, Chimso Onwuegbu. Mr. Murphy stated that the entire development team is local to Park City and they were presenting a project that they believed had been carefully thought through and would be a positive contribution to the City. They have gathered input from the Staff and the neighbors, and they were interested in hearing the comments and concerns of the Planning Commission and the public during this work session. Mr. Murphy stated that the desire is to offer a project that is compatible with and in harmony with the existing community.

Mr. Murphy stated that King's Crown is a 15-acre parcel of property located directly south of the Marriott Mountainside Hotel at the base of the Park City Mountain Resort. The property is bordered on the east by Lowell Avenue, and the King's Crown ski run borders the property to the west. Along the southern boundary is the existing Northside neighborhood.

Vice-Chair Joyce wanted to know the owner of the triangle of space between King's Crown, the Marriott and the angled space on the northern end. Mr. Murphy stated that Vail Resorts was the owner. Vice-Chair Joyce understood that Vail owned the property at the northern end adjacent to the King's Crown property. Mr. Murphy replied that he was correct. Below that is another parcel of property that is owned by Nastar LLC.

Mr. Murphy continued with his presentation. The property consists of 247 platted lots. These lots were part of the Snyder's Addition subdivision plat to Park City, and they were recorded in 1912. They are conveyable lots and create a very delicate and potentially problematic situation for the City. Mr. Murphy remarked that one of the primary benefits of the King's Crown proposal is the elimination of these lots in the replatting process. They were consciously reducing the number of potential building lots in this proposal to a fraction of what was platted. Mr. Murphy noted that there was 6.39 acres in the Resort Commercial Zone, and 8.61 acres in the ROS zone. The western portion of the property is impacted by the Sensitive Lands Overlay zone, which will not be built upon.

Mr. Murphy noted that the King's Crown proposal was not requesting variances from the Land Management Code. Even though the RC zone accommodates hotel, convention and commercial development in its purpose statement, the King's Crown project is not proposing those uses due to the limitations imposed by the adjacent Old Town streets.

Mr. Murphy stated that the density of the project could either be viewed as 247 platted lots, or by using the RC zone portion of the project. Since Planner Astorga had done a nice job of describing it he would not take the time to go over it again.

Mr. Murphy stated that the applicant was proposing approximately 82,000 of multi-family residential square footage, as well as the 27 single-family lots. They were also proposing to construct a CAT track ski run that accesses the project from the King's Crown ski run. The density was clustered, per the LMC, in the area where it would be most visually screened. The project plan intentionally places the higher density portions adjacent to the Marriott and across from the Lift Lodge. The Townhomes continue the townhome pattern that is already in place along the western side of Lowell Avenue. Single-family homes were placed across from the existing single-family homes. The idea is to continue the patterns that are already there, and place the development in infill areas, rather than where it would be more visually obtrusive. He thought it was important to note that the approximately 78,000 square feet located within the SLO is potentially developable. The SLO has complex density calculations, but even trimming off all 78,000 square feet of the SLO property, the proposed density is significantly less than what is allowable. Mr. Murphy remarked that the applicant voluntarily reduced the overall site density for this proposal. They were not proposing any density transfers or density bonuses that would be allowable under the Code. Both the MPD ordinance, as well as the SLO ordinance allow for density bonuses given that certain conditions are met.

Mr. Murphy stated that in addition to the uses stated above, they were proposing 16,194 square feet of affordable housing to be constructed on site, which totals 18.4 affordable unit equivalents. The project would require only 8.7 affordable unit equivalents. The applicant was proposing to build the additional affordable housing because it is the right thing to do given the current housing situation in Park City, especially in Old Town. They believe that year-round full time residents add to the vitality and vibrancy of an area, and that it is important for the private sector to step up and help fulfill the City's needs. Mr. Murphy noted that a variety of unit sizes are proposed, with adequate parking and dedicated owner storage. They will continue to work with the City's affordable housing authorities to develop the right mix and size of affordable units.

Mr. Murphy stated that the most significant community amenity of the King's Crown property is the second generation maple forest that is currently growing there. This is one of the most visible ridges in defining natural features of the Park City area. The King's Crown proposal is 82% open space, which considerably exceeds the 60% required in the LMC. If hardscape is added, the open space figure is 85%. Mr. Murphy noted that all the open space is contiguous and; therefore, has increased value as

wildlife habitat and eco-system integrity. The current recreational uses of skiing, biking and hiking would also be protected by the current proposal. Mr. Murphy thought it was important to note that the visual aesthetic of the property is maintained and the ridgeline enforced, but it would remain undisturbed.

Mr. Murphy remarked that the property has excellent pedestrian access to the Resort Transit Hub, which is one of the most transit hubs in town. In addition, the resort core area can be skied to with a short pedestrian walk upstairs or by way of an elevator. This feature of the project helps to minimize vehicular trips into the surrounding neighborhood. Mr. Murphy stated that they also intend to work with the new electric bike program and include that in their plans.

Mr. Murphy stated that they have had considerable dialogue with the neighbors and feel like they have a reasonable understanding of the concerns expressed regarding the proposed project. They deeply value the relationship with the neighboring properties, and strive to present a proposal that helps to mitigate the impacts of this project. Based on some of the comments received, they included a ski run that accesses the townhomes to the rear. The plan also includes sets of stairs that will allow pedestrian access to the ski run that all the neighbors can utilize. They plan to include a set of stairs in a location directly to the south, so that the Smith properties have easier access to the ski run. They also plan to plant mature trees in both of the buffer strips to the north and south to visually screen the project from the Marriott Mountainside Hotel and the neighbors to the south. The road was situated so that the entrance is located across from the 12th Street right-of-way, which should diminish the impact of headlights to the properties across the street. Mr. Murphy noted that the proposed condominium buildings were moved farther north and the roof design was modified to maintain the view of the Horowitz's unit.

Mr. Murphy stated that they were also proposing an idea that they believed would significantly improve the current pedestrian situation on Lowell Avenue. During ski season and particularly during winter storms, this area becomes increasingly narrow due to a lack of places to push snow. The pedestrian/automobile situation becomes a safety hazard. The applicant was proposing to construct a sidewalk along the eastern boundary of the property that would allow for pedestrian and auto separation to take place. No parking will be allowed in front of the condo buildings. The HOA will have the responsibility to remove snow from this area. Mr. Murphy noted that one idea being considered is to radiant heat the sidewalk with solar power so the sidewalk is clear when it is needed the most. They continue to discuss this idea with the Staff.

Mr. Murphy remarked that one of the most significant concerns of any new project is traffic. Two traffic studies have been carried out on the proposed project. The most

detailed is a study by Triton Engineering, which is available on the City website. While there is no question that the proposal will add traffic, the volumes associated with the project should not create game changing increases in traffic volumes. Several significant traffic reduction considerations have been implemented into the project. The project is very pedestrian friendly given its access to local transit and the resort hub. It is also easy walking distance to the Main Street area, the Park and the Library. Mr. Murphy pointed out that ski access would help to tamp down traffic during the busy ski periods. Not having to drive to the resort will be a major reason for people to have interest in this project. Mr. Murphy stated that by not including commercial and hotel uses in the proposal, the traffic impacts of those uses are eliminated. The most significant traffic reduction method they could implement was to voluntarily reduce the allowable density in the proposal.

Mr. Murphy noted that the most impacts to a neighborhood occur during the construction period. For this project all material will be stored on-site and the site will be kept in a neat, orderly fashion throughout construction. One feature they would like to include would be to have a truck turnaround on the property to eliminate truck impacts on upper Lowell and Empire. The plan is to not have construction trucks use upper Lowell and Empire. Mr. Murphy stated that the turnaround would also eliminate the need for backup beepers. They would like to further explore spreading clean material on site, particularly on the ski run, to try to reduce truck trips in general. The site would be screened per Code, and follow any suggestions from the Staff and Planning Commission to alleviate the situation for the neighborhood and the City in General.

Mr. Murphy stated that they would take Commissioner Campbell's point further and come back to the next meeting with specifics on the construction mitigation plan. It will be in writing with exact numbers. Mr. Murphy remarked that as the applicant, they will be building the road, the townhomes and the affordable housing, and the Commissioners will have answers to their questions.

Vice-Chair Joyce suggested taking a break to allow the Commissioners and the public the opportunity to view the model before taking public comment.

[Break]

Vice-Chair Joyce opened the public hearing.

There were no comments.

Vice-Chair Joyce closed the public hearing.

Commissioner Phillips understood that this plan was preliminary and a lot of work still needed to be done. The devil is in the details and they will where this goes in the future. The questions he asked this evening had been answered and he had nothing more to add.

Commissioner Campbell reiterated that the objections and concerns expressed by the Commissioners and the public regarding a neighboring project would be voiced for this project as well. Even though this project would be smaller, the construction impacts are the same.

Commissioner Band liked the initial concept. She gave kudos to the applicant for providing the additional affordable housing, and for coming to this meeting as prepared as possible. Echoing the other Commissioners, she would like to see the massing of the homes on the lots, and a digital of how it fits into the neighborhood. Commissioner Band looked forward to the next presentation.

Commissioner Thimm stated that in terms of the overall plan, he was comfortable with the placement of density and the massing. It appeared to be in the proper place on the site given the topography and extreme access points. Commissioner Thimm thought the uses proposed were appropriate and he recommended that they continue with those uses. He noted that the commitment to affordable housing was well received and certainly within previous discussions. He suggested that they continue to work closely with the City affordable housing staff to understand how deeply to target the affordable housing measurements. Commissioner Thimm thought the commitment to sustainability was also well received and very much in keeping with the commitments the City has made. He liked the idea of solar powered snow melt and he would like something like that to happen someday. Overall, working with the reduced density and having the mass step and honor the topography of the land seems appropriate in terms of the requirements.

Commissioner Seusser concurred with her fellow Commissioners. She would like the applicant to focus on moving pedestrians around the project in an efficient and effective way, because putting additional people on Lowell would create a real problem. Keeping a focus on that would be helpful.

Vice-Chair Joyce liked the preliminary concept. He thought the applicant had done a nice job. Vice-Chair Joyce echoed the comment about stepping back with the land. He stated that he was concerned when he first read five stories for one of the buildings; however, he eventually read that the applicant was not requesting a height exception and saw how the buildings cut back with the land. Vice-Chair Joyce referred to the ski

access and asked if the applicant was either providing or working with Vail to provide snowmaking on the access.

Mr. Murphy replied that they have not talked about and it was a good question.

Vice-Chair Joyce noted that most traffic studies measure units of traffic at the intersections. A big problem with Lowell and Empire are narrow, substandard streets with cars parked on the sides and no space for snow removal. While this project may not add significantly more traffic, it will be exacerbated by eliminating parking. In addition, a number of driveways are proposed. Vice-Chair Joyce stated that his concern with the single family homes is that those cars will be backing out onto Lowell. When they talk about traffic, he assumed the Planning Commission would have a lot of questions, specifically regarding Lowell in the winter, versus pure car counts.

Vice-Chair Joyce understood that a small portion would be carved out for the Bamberger family, but it was not shown as a separate lot. Mr. Murphy explained that when the Bamberger's sold them the property they wanted to keep the King's Crown ski run because they have maintained a relationship with the ski company since 1963. For that reason, they wanted to cut out that portion and sell the rest of the property. Mr. Murphy was told by the title company that the Bamberger's were able to do that. The title company said that they were conveyable lots. The streets were abandoned but the lots were not. The Bamberger's kept that lot. Mr. Murphy stated that he has spoken with Staff and he would like to formalize that in this process. He was currently trying to convince the Bamberger's to be a party to formalizing the subdivision. Mr. Murphy acknowledged to the Bamberger's that the title company, the underwriters and the attorneys thought it was legal, but it still needs to be formalized. He has a hard time explaining it because he barely understands it himself. Mr. Murphy believed that the Bamberger's would give them permission to be part of this process, and they would subdivide out the additional four to five acres.

Vice-Chair Joyce asked if that would have any impact on their ability to do ski in/ski out. Mr. Murphy replied that they have an easement over the Bamberger property. Planner Astorga indicated the portion was not being counted towards the open space calculation, and currently it was not part of the master plan. It would be part of the subdivision to remove the tiny lots that are there. If the Bamberger's should say no, they would replat what Mr. Murphy and his partners control and move forward with the master plan. Planner Astorga clarified that the triangle piece at the very back is included in the subdivision but not the master plan at this point. Mr. Onwuegbu, the project architect, stated that none of the information shown in the presentation this evening had included that piece.

Commissioner Thimm stated that in terms of the conditional use mitigation aspects, and looking at building mass and bulk, he noted that Building D has a large horizontal mass. As the project develops, in terms of addressing that part of the CUP application, he suggested that breaking the mass of the building would better mitigate it.

Vice-Chair Joyce closed the work session.

CONTINUATIONS (Public Hearing and Continue to date specified.)

Vice-Chair Joyce recalled a previous discussion about applicants who come back for repeated continuations, and the problem it creates for the neighbors and others trying to keep informed. He noted that in the past six months the City has been the worst in asking for continuations on 1450/1460 Park Avenue, the LMC amendments, and now for the Woodside Park affordable housing project. Vice-Chair Joyce requested that the City apply the same stringent rules and guidance to their own projects because the same notification issues exist.

Director Erickson agreed that a number of carryover public notices were causing the problem. The procedures have been revised to no longer notice for City Council at the same time they notice for Planning Commission action. In addition, they will be doing less date certain continuances and more to a date uncertain. The Planning Department would rather re-notice an item instead of continuing to a date certain and having to continue it again.

1. 1800 Park Avenue - The applicant has requested a modification to an approved Conditional Use Permit for a temporary tent structure located within the interior courtyard of the Double Tree by Hilton hotel. (Application PL-17-03537)

Planner Tippe Morlan noted that she was assigned to handle this item after Makena Hawley left the Planning Department. Ms. Hawley had scheduled this item for this meeting; however, Planner Morlan was requesting a continuance to August 23, 2017 to have more time to familiarizing herself with this application and to coordinate with other City Departments on items related to this request.

Vice-Chair Joyce opened the public hearing. There were no comments. Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Thimm moved to CONTINUE 1800 Park Avenue – Modification to an approved conditional use permit to August 23, 2017. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

2. 1333 Park Avenue, 1353 Park Avenue, and 1364 Woodside Avenue – Woodside Park Affordable Housing Project Phase I – Plat Amendment – Proposal for a three-lot (3-lot) subdivision to create the Woodside Park Subdivision Phase I.
(Application PL-17-03439)

Planner Hannah Tyler stated that the next continuations were all part of the Woodside Park Affordable Housing Project that was presented to the Planning Commission at a work session at the last meeting for the MPD. The four items for Continuation include the plat amendment, two CUPs and the MPD.

The Staff requested that the Planning Commission continue this item to a date uncertain.

Director Erickson reported that the Staff was planning a work session for Phase 2 in the near future. Planner Tyler stated that a work session would be scheduled in response to comments made by the Planning Commission at the last meeting.

Vice-Chair Joyce opened the public hearing on all four of the items being continued for the Woodside Park Affordable Housing project; 1333 Park Avenue, 1353 Park Avenue and 1364 Woodside Avenue.

There were no comments.

Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Band moved to CONTINUE to a date uncertain 1333 Park Avenue, 1353 Park Avenue, and 1364 Woodside – Woodside Park Affordable Housing Project plat amendment. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

3. 1364 Woodside Avenue – Woodside Park Affordable Housing Project Phase I – Conditional Use Permit – Proposal for a Parking Area with five (5) or more spaces for use by the Woodside Park Affordable Housing Project Phase I.
(Application PL-17-03452)

MOTION: Commissioner Phillips moved to CONTINUE to a date uncertain 1364 Woodside Avenue – Woodside Park Affordable Housing Project Phase I conditional use permit for a parking area of five spaces or more. Commissioner Band seconded the motion.

VOTE: The motion stopped unanimously.

4. 1353 Park Avenue (actual building to be located at 1354 Woodside Avenue)– Woodside Park Affordable Housing Project Phase I – Conditional Use Permit – Proposal for an eight-unit (8-unit) Multi-Family Dwelling as a part of the Woodside Park Affordable Housing Project Phase I. (Application PL-17-03453)

MOTION: Commissioner Suesser moved to CONTINUE to a date uncertain 1353 Park Avenue – Woodside Park Affordable Housing Project Phase I. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

5. 1333 Park Avenue, 1353 Park Avenue, and 1364 Woodside Avenue – Woodside Park Affordable Housing Project Phase I – Master Planned Development – A proposed affordable housing project will be located at the site of the former Park Avenue Fire Station Parcel and will consist of four (4) single family dwellings, an eight-unit (8-unit) Multi-Family Dwelling, a thirteen-car (13-car) Parking Lot, and a Pedestrian Easement running east-west. (Application PL-17-03454)

MOTION: Commissioner Band moved to CONTINUE to a date uncertain 1333 Park Avenue, 1353 Park Avenue, and 1364 Woodside – Master Planned Development. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

6. Land Management Code Amendments regarding Master Planned Development Applicability in the Historic Residential (HR-1), Historic Residential (HR-2), and Historic Residential-Medium (HRM) Density Zones in Chapter 15-6-2 Applicability in Master Planned Developments. (Application PL-17-03586)

Planner Tyler noted that this item was a pending ordinance to address MPD applicability in the HRM zoning District. This was a pending ordinance to get on the docket. The Planning Commission would receive further analysis for further discussion at the next meeting on August 9th.

Vice-Chair Joyce opened the public hearing. There were no comments. Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Suesser moved to CONTINUE the Land Management Code Amendments regarding Master Planned Development Applicability in the HR-1, HR-2 and HRM to August 9, 2017. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 277 McHenry Ave – A plat amendment requesting to combine the two existing lots located at 277 McHenry Avenue into one lot of record and to formally dedicate Right-of-Way for McHenry Avenue. (Application PL-16-03165)

Planner Tippe Morlan reviewed the application for a plat amendment to combine two existing lots, both addressed at 277 McHenry Avenue, into one lot of record. This plat amendment would remove the lot line running laterally through the house that cuts directly through the existing duplex on the site. The existing house is duplex that was built in 1973.

It is not historic and it has been built over the lot lines. Planner Morlan noted that based on Staff records the site does not meet the four space parking requirements; two for each unit. Two spaces are currently provided; however, the applicant has indicated that they also provide two parking spaces across the street on the eastern portion of the lot.

Planner Morlan noted that the proposed lot would be a total of 4,833 square feet, with 4,381 buildable square feet, after removing McHenry Avenue, which runs directly through this lot.

Planner Morlan reported that the applicant received a variance from the Board of Adjustment in March to allow an accessory apartment with a floor area greater than the typically allowed one-third of the floor area of the main dwelling, and up to 1,000 square feet.

Planner Morlan noted that the applicant has considered the option of constructing the option of constructing an accessory apartment on the eastern portion of the lot. If the applicant proceeds with accessory apartment, the Staff would recommend that any approvals for the accessory apartment be limited by a condition requiring that the duplex return to a single family dwelling so the entire site maintains two dwelling units. That condition was included as one of the conditions of approval on this plat as proposed by

Staff. Planner Morlan stated that an accessory apartment would require a separate conditional use permit application with separate terms and conditions.

Planner Morlan reported that a steep slope CUP would also be required to develop any structure on the eastern portion of the lot.

The Staff recommended that the Planning Commission conduct a public hearing and forward a POSITIVE recommendation to the City Council, finding good cause in that the proposed lot amendment cleans up stray lot lines bisecting an existing structure. This plat amendment would allow the applicant to either remodel or build on the existing structure, or if they choose, to convert it to a single family dwelling with the option to build an accessory apartment.

Planner Morlan remarked that the most important benefit for this plat amendment is that it would formally dedicate the portion of McHenry Avenue on the lot to the City. She noted that it has already been used as McHenry Avenue for over ten years and, therefore, by State Code it is already City property. However, this plat amendment would formalize that dedication.

The applicant and the owner were available to answer questions.

Vice-Chair Joyce opened the public hearing.

Charlie Wintzer, 320 McHenry Avenue, stated that everyone in the neighborhood has gone through this same process and they support the subdivision. However, he wanted it on the record that they would not be in favor of an accessory apartment. If an application comes forward for an accessory apartment, the neighbors would be back to oppose it.

Vice-Chair Joyce closes the public hearing.

Commissioner Thimm asked if any part of the plat amendment action would have relevance in terms of approving or denying an accessory apartment. Planner Morlan answered no. She explained that the condition of approval provides a stipulation that maintains the density if they choose to build an accessory apartment. Commissioner Thimm clarified that it was a separate issue that was not under consideration this evening. Planner Morlan replied that he was correct.

Commissioner Phillips pointed out that the neighborhood could not have nightly rentals, so that would not be an issue. Planner Morlan stated that the applicant would live in the new structure if one was built.

Vice-Chair Joyce referred to the condition stating that the duplex would have to return to single family if an accessory apartment is built. He wanted to know what he means to convert a duplex to single family, and how do they make sure it is done. Planner Morlan explained that the applicant would have to go through the Building Department to insure that there are no separations between the two parts of the building. There can only be one kitchen. The Building Department has a set of standards to insure that only one family or group of people can live there.

Vice-Chair Joyce clarified that it would require substantial remodeling. Planner Morlan answered yes. The applicant would have to get approval from the Building Department, and the single family dwelling must be dedicated and a deed restriction would be recorded before issuing a certificate of occupancy under the conditions proposed.

MOTION: Commissioner Suesser moved to forward a POSITIVE recommendation to the City Council for 277 McHenry Avenue, based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 277 McHenry Avenue

1. The property is located at 277 McHenry Avenue in the Historic Residential-Low Density (HR-L) District.
2. The property consists of all of Lot 12 and half of Lot 11 of Block 60 of the Park City Survey.
3. On May 3, 2016, the City received a Plat Amendment application for the 277 McHenry Plat Amendment which was deemed complete on May 25, 2016.
4. On July 10, 2017, the property was posted and notice was mailed to affected property owners within 300 feet.
5. Legal notice was published in the Park Record on July 12, 2017.
6. Adjacent land uses are residential single-family homes.
7. The minimum lot size in the HR-L zone is 3,750 sf.
8. The subject site contains a total of 4,381 square feet, not including the road.

9. The western portion of 277 McHenry is a total of 2,557 sq. ft.
10. The eastern portion of 277 McHenry is a total of 1,824 sq. ft.
11. The portion of the lot with the road is a total of 452 sq. ft.
12. The existing duplex is 2,100 sq. ft. with a footprint of 700 sq. ft. The maximum footprint allowed on the lot is 1,712.2 square feet, based on the total lot area (minus the road). No variance to the maximum footprint has been requested.
13. In the HR-L zone, an accessory apartment is a Conditional Use.
14. The existing Duplex was built in 1973 over two property lines. No building permits could be located.
15. The existing Duplex is a legal non-conforming use in the HR-L zone.
16. Front and rear yard setbacks are 10 feet minimum and 20 feet combined for section of the lot (east and west) measured separately.
17. Two frontages are created with McHenry Avenue bisecting the property.
18. The property on both sides of McHenry Avenue are addressed as 277 McHenry Avenue.
19. Side yard setbacks for both sections of the lot are 3 feet minimum on each side and 6 feet combined. The existing structure and the proposed accessory apartment structure meet the side yard setback requirements.
20. Parking requirements for a Single Family home are 2 spaces per dwelling unit.
21. Parking requirements for a Duplex dwelling is 2 spaces per dwelling unit.
22. Parking requirements for an accessory apartment are 1 space per bedroom.
23. The existing duplex structure has 2 parking spaces which will remain if it is converted into a Single Family dwelling.
24. If an accessory apartment is approved with the 2-car garage (as proposed) and the duplex becomes a single-family dwelling, each unit will comply with all applicable

parking requirements.

25. The existing duplex does not meet current parking requirements providing 2 spaces with 4 spaces required.

26. A variance to allow an accessory apartment with a floor area greater than 1/3 of the floor area of the main dwelling unit up to 1,000 square feet has been granted to the applicant at the March 21, 2017 Board of Adjustment meeting.

27. A variance to allow an accessory apartment with a floor area greater than 1/3 of the floor area of the main dwelling unit up to 1,166 square feet at this address has been denied at the March 21, 2017 Board of Adjustment meeting.

28. A variance to reduce the rear yard setback from 10 feet to 5 feet on the eastern portion of the lot has been denied at the May 16, 2017 Board of Adjustment meeting.

29. The location of the McHenry Road, splitting the subject site in two, does not allow any construction in that same location.

Conclusions of Law – 277 McHenry Avenue

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

Conditions of Approval – 277 McHenry Avenue

1. The 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 will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A ten feet (10') wide public snow storage easement will be required along the front of

the property.

4. Fire sprinklers shall be required for all new construction or substantial renovations, as determined by the Park City Building Department during building permit review.
5. A utility easement is required on the plat 10 feet from the sewer line located in McHenry Avenue on the uphill side of the road.
6. McHenry Avenue will be dedicated to Park City Municipal Corporation on the plat.
7. The density cannot increase on this lot. If the applicant wants to apply for an accessory apartment, the duplex will need to be converted to a single-family dwelling.
8. This lot can never be further subdivided or sold separately. The property on both sides of the road will always be 277 McHenry Avenue. This shall be noted on the plat prior to recordation.

2. **Land Management Code Amendments regarding Conventional Chain Businesses for the Storefront Enhancement Program in Chapter 15-2.5-2 Uses in the Historic Recreation Commercial (HRC), Chapter 15-2.6-2 Uses in the Historic Commercial Business (HCB) Chapter, and associated definitions in Chapter 15-15 Defined Terms.** (Application PL-17-03586)

Planner Tyler reviewed the LMC amendments for conventional chain businesses in the Historic Recreation Commercial (HRC) and Historic Commercial Business (HCB) zoning districts. She noted that Director Erickson had help with the Staff report, and Jonathan Weidenhamer, Economic Development Director, had also been involved and very supportive. Mr. Weidenhamer was present to answer questions related to economic development.

Planner Tyler provided a brief history of the conventional chain business discussion. Director Erickson had informed her that discussions regarding conventional chains date back to the Kmart approval at Kimball Junction and the Burger King approval within the City limits. However, it has been a decade since conventional chain businesses in the City have been seriously discussed.

Planner Tyler noted that the Staff recently reviewed the first piece of the storefront enhancement program, which is the latest implementation strategy of the General Plan. That was step one, which was the façade width LMC amendment. The Staff was now coming back with step two, which is a conventional chain business cap. It was discussed

by the City Council on May 11th during a work session, and the Council directed the Staff to pursue a cap on conventional chain businesses. That was the reason for bring this to the Planning Commission. Planner Tyler explained that the goal is to accomplish the desired outcomes of vibrancy and diversified retail mix, consistency with the General Plan and historic preservation goals, and maintaining the tourism economy.

Planner Tyler stated that since the City Council work session on May 11th, the Staff had completed considerable stakeholder outreach, which included several presentations to the Historic Park City Alliance. The HPCA had submitted a position statement that was included in the Staff report under public comment. The Staff also met with property owners, business owner and members of the real estate community to review the proposal.

As part of the storefront enhancement program, effective entities and property owners received four mailing notices; one of which addressed the chains.

Planner Tyler provided an overview of the storefront enhancement program, and the five different components of the implementation strategy of the General Plan; 1) the historic district protections; 2) design guidelines; 3) promotion of the shared economy model and cultivation of incubator spaces; 4) LMC Code regulations; and 4) future RDA potential. The idea is that it leads to vibrancy.

Planner Tyler noted that the proposed definition of conventional chain businesses was outlined in the Staff report. She commented on changes that were made for clarification after it was reviewed by the City Council. The definition was drafted based on definitions of conventional chain businesses from other communities. The Staff took the components of those definitions that they felt would apply in Park City and drafted one hybrid definition.

Planner Tyler presented a slide of the HRC and the HCB district boundaries. Initially, when they took this to the City Council on May 11th they were only proposing to do a cap in the HCB, and leave the HRC alone. When they met with the HPCA, their feedback was to include the HRC and to treat it equal because it is a key component of Main Street. After further analysis the Staff included the HRC in this proposal.

Planner Tyler stated that as they moved forward they were looking at it more on a macro scale. However, they took a step back and looked at the downtown core and identified the market forces that drive the Main Street market. It was a complex balance because it is a mix of second home owners, primary residents, tourists, and those who are driven to Main Street through special events. Four different groups lead to what becomes the Main Street market. Planner Tyler remarked that part of the analysis model was to establish an appropriate cap using metrics derived from the current conditions in the HCB and HRC. They needed to find an exact number that

would fit into what they already have on Main Street. In order to reach a reasonable number of conventional chain businesses, the Staff developed a model using several different approaches. They looked at linear feet of streetscapes. The total number of storefronts could be ever changing because current businesses could subdivide and become two storefronts; but the linear feet of those storefronts will remain the same. They also looked at the existing conventional chain business stock on Main Street and the total number of stores, as well as the types of uses and the percentages they occupy on the street.

Planner Tyler stated that in looking at this on the macro scale they consistently came up with 80% non-conventional chain businesses and 20% conventional chain businesses.

Commissioner Campbell asked if the 80/20 percentage was based on what exists now, or what the Staff was proposing. Planner Tyler replied that the Staff was proposing 80%. She explained that with the model they derived a 20% conventional chain cap in the HCB and the HRC. Four out of every five stores would be non-conventional chain businesses. Using the percentages, they created a hard number because it is difficult to regulate on percentages.

Planner Tyler explained the formula the Staff used to calculate the percentages and the resulting hard number. The HRC District was identified in orange, the HCB was identified in blue, and the green color represented the combined districts. Using the metrics derived from linear feet, number of storefronts and uses, the Staff came up with 20% of storefront facades measured in linear feet. They established a cap for each zone using those figures, divided by the average storefront width of 37-1/2 feet. It was round up from 36-1/2 feet. It represented 1-1/2 lots, which is a consistent width in the Historic District for both residential and on Main Street. Planner Tyler remarked that the calculation identified the average amount of stores that would fit into that linear feet. Using those metrics, the retail mix would result in approximately 80% non-conventional chain businesses, with no more than eight new conventional chain businesses in the HRC. Therefore, the Staff was proposing a cap of 9 in the HRC. For the HCB, the retail mix would result in 80% non-conventional chain businesses, with no more than seven new conventional chain businesses. The Staff was proposing a cap of 19 in the HCB zone. Currently there is one conventional chain business in the HRC and 12 in the HCB.

Director Erickson clarified that there have been many conversations on how to handle retail real estate agencies. They tend to meet the definition of conventional chain businesses because they have a number of stores, standardized logos, and standardized products. For the sake of consistency, the Staff elected to include those

in the conventional chain business definition. If the numbers appeared to be inaccurate it was because the real estate market product is included in that model.

Vice-Chair Joyce stated that he found the counter-balance because other things such as Gorsuch that does not meet it, even though many people would perceive it as being more of a chain. Director Erickson agreed that it was a quid pro quo because they were not dealing with a lot of the franchise models, because they are owner occupied and they do not have standardized logos and other requirements. Director Erickson gave examples of other models that they tried to consider and adjust around. He agreed with the example of Gorsuch.

Commissioner Suesser asked if the storefront properties on lower Main included the storefronts facing to the common pedestrian plaza. Planner Tyler answered no. That would remain unregulated under this proposed ordinance.

Planner Tyler explained how the zoning change works and noted that it was included as a footnote in the use table, which is consistent with how they regulate vertical zoning and other things. In terms of enforcement, it is regulated through the business licensing, consistent with how they regulate offices on Main Street and any use in any zone. As the business license goes through Finance, it gets routed to the Planning Department to reviewed for use and whether it is allowed in the zone. The Planning Department has the current stock and they will continue to maintain that stock. For example, if they reach the cap of 19 in the HCB, any new business coming in would have to prove that a business has left and there is no longer an active business license in that particular location. It will be tied to the entire zone and not to location.

Commissioner Thimm commented on the numbers 9 and 19 and the measured width of 37-1/2 feet, and assumed that if a business that was 37-1/2' wide x 2, it would count as two of the 19. Director Erickson answered no. He explained that it is factored on two different equations. It is regulated to a business license, irrespective of the façade width. That is different than the storefront enhancement programs which requires breaking up businesses every 50 feet. Commissioner Thimm clarified that the cap is 19 business licenses. Director Erickson replied that he was correct.

Commissioner Campbell asked how they would address the situation of someone who might purchasing a building for a business and then apply for a business license. He thought they needed to find a way to protect someone from finding out about the cap after they purchase the building. Director Erickson replied that it would be clear in the use table as part of their due diligence. Vice-Chair Joyce asked if it would be easy for someone to figure where they are in the count. Planner Tyler replied that they could call the Planning Department in doing their due diligence. Director Erickson pointed out

that the commercial leasing community was fully aware and a newcomer should hear about it. He stated that it was also becoming standard operating procedure across resort towns.

Using Gorsuch as an example, Vice-Chair Joyce asked if there was a mechanism in place for a business who in the future decides to open other stores, which could make them a chain, and whether there was a process to know whether it would exceed the cap. Director Erickson replied that in that situation the business, such as Gorsuch, would be a legal non-conforming use because they were already in place.

Assistant City Attorney McLean believed that in that circumstance, because it was already existing the business would remain but it would not change the overall number. If the store goes away, someone would not be able to replace that particular one. Vice-Chair Joyce assumed that it would count as the 20th store. If someone was waiting to open a new chain store, two would have to close before someone else could take the 19th slot. Vice-Chair Joyce asked if the non-conforming status counted against the total. Ms. McLean thought it would. It was initially non-conforming, but at any point where it could become conforming, it would be conforming.

Planner Tyler explained that if they were at 16 and they discovered that it was a chain, it would be counted as the 17th. However, if the number was at 19 and it pushed it over to 20, they would allow Gorsuch to stay, but two others would have to go away.

Vice-Chair Joyce remarked that the notes were clear and short, and he asked if something else is needed to address the more complex issues. Assistant City Attorney McLean thought it was best to address those situations on a case by case basis and Code interpretation.

Commissioner Suesser wanted to know how much discretion the City was maintaining in issuing a license for a chain business. Director Erickson replied that it was first come first served. The definition as was clear and precise as possible, and there is no Planning Director determination of a chain. He stated that since the 20% was arrived at externally using three separate models, the 20% was a test. Planner Tyler had presented alternatives down to 15%, and they looked at going to 25%. All of those models tested it. They wanted to make sure there was precision in the definition so if the City Council directed 15% instead of 20%, they would still be precise in the definition.

Commissioner Suesser asked what the City has been doing to date. Director Erickson stated that if companies meet the constraints for conventional chain businesses on Main Street; particularly the sign ordinance and parking demands, they can obtain a

business license on Main Street. Planner Tyler noted that the sign code deters many chains from coming to Park City because most of the signage is allowed. Commissioner Phillips believed that the 50-foot façade was also be a deterrent.

Vice-Chair Joyce opened the public hearing.

Billy Reid, stated that he was representing two ownership groups; The April Inn at 545 Main and the Claimjumper at 573 Main. As a landowner he preferred not be told who they can rent to when there is a viable renter in the market. As the owner of a mom and pop where he lives in the Bay Area, he understands the desire to want to protect the mom and pop. Mr. Reid understood the desire for doing something, but he did not like the proposed method. He did not think limiting a market was the correct approach. His wife has a small candy store business, but her biggest competitor is not a major candy store. It is Amazon. He urged the City to consider something other than limiting who can come into a market when they desire to be there. Mr. Reid remarked that Commissioner Joyce had addressed the issue of Gorsuch expanding and pushing over the cap. He currently rents to Sotherby and Overland, which both meet the conventional chain business definition. If they were to move out, he would like to rent the space to a business that is equally as desirous of coming into the market. He found it concerning that if his tenants move out, they could be replaced with the next chain. He recalled that when a similar issue was done with the real estate offices, that the real estate office goes with the location. For example, if Sotherby's moves out, Berkshire Hathaway to could move in. Mr. Reid believed it was a concern that should be addressed now before it becomes a problem.

Angela Moschetta was aware that this has been a conversation for decades. However, she was new to this issue over the last year, and she has talked to everyone inside City hall about it. What she learned in the past year is that some people in the community, all landlords, believe that this should not be a matter of restriction, that the free market should win and people should be able to rent to whoever they want to. Ms. Moschetta believed that a lot of other people, such as residents, business owners, and landlords on Main Street who feel that people made a lot of money over the years, but in order to give back to the community and protect the uniqueness and vibrancy, it is now time to put something in place. Ms. Moschetta remarked that the emotional part of her would love to see an absolute ban on chains, but in conversations with Bruce Erickson and Hannah Tyler, she respects the time they spent on this and the research they have done. She was very impressed with their work, and trusts how they came to the decision and the recommendation put forth. Ms. Moschetta struggles with whether it should be 20% or 15%. She is concerned at the thought of doubling the number of current chains on Main Street if 20% is applied, and that might be a debate for City Council. Ms. Moschetta requested that the Planning Commission forwarded a positive

recommendation, because if they miss it this time it will never happen and everything that makes Old Town a desirable shopping and entertainment district will be at risk. Ms. Moschetta thanked Bruce, Hannah and Jonathan for their efforts, and she thanked the Planning Commission for their time.

Michael Kaplan stated that he is a Professor of Business and he used to own a business on Main Street. Approximately two years ago business and real estate leaders formed a group to see what they could do to help as Main Street evolves. The group evolved to working with Bruce, Hannah, Jonathan and Polly, and the issues were complicated. In his mind, they have evolved from keep Park City Park City, authenticity, no mall on a hill. Through Eric and other real estate people, they came to learn that some chains are an amenity to Main Street. For example, a Lululemon brings people from Montage to Main Street. From his perception, their thoughts have changed and evolved. Mr. Kaplan noted that the City has been working on this for almost two years, and he wanted the Planning Commission to know that Bruce, Jonathan, Hannah and Polly sought out their opinions and listened to their perspectives. They have been insightful in their opinions and totally professional, and they are a credit to the City.

Rick Margolis stated that he owns homes in Park City and he lives in Malibu full-time. He was unsure how the Code works, but Malibu passed a chain store restriction and it took two years to overturn it and \$2 million of Malibu's money. The restriction was ruled to be unconstitutional. Mr. Margolis assumed Park City was doing all the research, but the ruling in Malibu was handed down in June of this year. As a practical matter, he referred to Commissioner Campbell's question about buyers knowing that they could have their business before purchasing a building. Mr. Margolis understood that it was done by business license, and he asked if the building permit obtained needed to be obtained, the TI application done, and the space built out before a business license could be issued. If someone cannot get a business license before they invest their money building out the space, they could be stuck with a space and no business. Mr. Kaplan wanted to know how that was being processed and dealt with in this legislation.

Director Erickson replied that the process would not change with this legislation. However, he was unsure whether the TI had to be done before a business license could be issued. Jonathan Weidenhamer replied that generally the TI has to be done first.

Mr. Kaplan remarked that they were setting up a situation where someone invests because they think a slot is available, but by the time the store is built and they apply for a business license, other businesses who took existing locations came in before them

and now the slots are no longer available. Mr. Kaplan suggested that they look at pipelining to make sure that people can get in line and not waste their money.

Eric Nelson stated that Gorsuch is a family owned business in two states. All their stores are in Colorado except for in one Utah. One of the arguments that people have is that tourists do not want to see the chain stores they see at home. Mr. Nelson remarked that the ten store definition of a chain store did not make sense, and Gorsuch as a chain store under the definition did not make sense. He is in the retail and the real estate business, and there are a number of retail stores that might have ten stores that would be fabulous for Park City. He hoped they would take that into consideration. Mr. Nelson stated that the mom and pop business is not what it used to be, and he wanted to know who would fill those spaces when they hit the 20% cap. If the City implements this into the Code, he was certain they would have vacancy on the street. He encouraged them to take that into consideration. Mr. Nelson commented on vibrancy. In looking at the City numbers, if you remove the estate companies, 12 chain businesses under the definition are doing 50% of the business on the street. In his opinion, that is vibrancy. In 2002, the retail sales on the street was approximately \$150 million, and they did not reach that number again until last year. The chain stores brought the sales back up. Mr. Nelson believed the City needed to look at those issues. He did not believe they could limit to 20% without it causing problems in the future. Mr. Nelson agreed that a number of cities have this standard, including San Francisco where chain stores are a conditional use. He suggested that the Staff look at the issues that other cities have experienced with this restriction.

Lori Harris stated that she owns Mary Jane's on Main Street. She specifically moved from San Francisco to Park City 15 years ago. She lives in Old Town. She shops on Main Street, she eats on Main Street, and she works on Main Street. She has a lot of passion for Main Street, and whenever these topics come up people suggest that she could move somewhere else. She does not want to do that because the main reason she came to Park City was to have her business on Main Street. Ms. Harris stated that this was her first foray into retail and it has been successful. She has been in the same location the entire time. As a business owner, she would like to see balance in the marketplace. She would not want Main Street to turn into a complete mall of chain stores, but she also does not want to see vacancies. She believed that the Planning Department was trying to find a starting point, and that could be altered down the line if it is not successful. Ms. Harris stated that she has been a successful business owner and she weathered the recent recession. It was difficult and she had to take a full-time job in technology in San Francisco to keep things going, but it turned around and her store is thriving. She has a lot of friends who have local stores that are also thriving. They are not mom and pops. They are young women in business who started their businesses in Park City, and it was something the City should be supporting.

Thomas Cook stated that he is a Snyderville Basin Planning Commissioner, but he was representing himself. He wanted to echo a few points that were made this evening, and point out a few things that were not addressed in the definition of a chain store. Mr. Cook remarked that often times they talk about chain stores versus mom and pop operations. However, sometimes chain stores are actually independently owned franchises that are purchased by mom and pop family owned operations. Mr. Cook did not believe that all chain stores are equal; but they would be by the proposed definition. Some chain stores require their franchisees to contribute significant amounts of time and money, percentage of sales, to community programs. He requested that they relook at the definition of a chain store and consider adding more flexibility or leeway. He referred to an earlier comment where someone said that some chain stores offer an amenity to tourists and locals. He has lived in the Park City limits and in the Basin since 1993. Starting a business takes time, regardless of whether you are starting your own brand or buying into a franchise. A previous gentleman asked about the process and when someone pulls a permit for a business license. He also heard someone say that it would be part of the due diligence for purchasing a property. Mr. Cook pointed out that there is a lot of competition, and there are few vacancies on Main Street or not always the right space, and the process takes time. He believed that people will need the security of knowing that if they invest a significant amount of money, go through the process of starting a business, have done their due diligence and signed a lease, that they will have the opportunity to get a business license regardless of how long it takes to build the space.

Mike Barille, Executive Director for Historic Park City Alliance, stated that he was present to offer clarification or to answer questions about the opinion statement they submitted as part of the public comment record. He noted that the membership took up this discussion with the Staff on a number of occasions, as well as internally amongst their own membership. They arrived at the conclusion that some foray into this realm of regulation was needed in order to protect the authenticity and the historic character of the Historic Commercial District in Park City. It was really more about that than market forces or rent prices or even retail sales. Taking the long view of the historic character, the rhythm of the size of store front and seeing a vibrant mix of types of products is what differentiates Park City from other places where people visit, shop and spend their money. The Historic Park City Alliance wants to protect that over the long haul. Mr. Barille commented on caveats and qualifications to their opinion statement. One is that they are primarily a business owner/operator membership; although there are some property owners or some with dual purpose, and they again took the long view of protecting the authenticity. Mr. Barille remarked that Bruce, Hannah and Jonathan had put in a lot of good due diligence. They referenced and researched a lot of the communities that were spoken about in public comment in an effort to weight the pros

and cons. They also looked at the unique characteristics they have to deal with in Utah, and the constitutional law that varies from other places. In the initial working groups there was a lot of discussion and plea for looking at locally owned businesses in a different light, whether a chain or not. For example, recreational products could be looked at differently than other products. There are other ways of looking at what matches Park City's community ethic. Mr. Barille remarked that when the analysis was done everyone felt those methods would be on shaky legal ground, and that determining a simple cap and applying it to everyone was the best way to move forward. Mr. Barille stated that having said that and reiterating their support for the ordinance as proposed, the Alliance recognizes that some of the chains have been great assets to the business district. Their marketing power and their outreach helps bring additional customers to the other business on the street. In turn, some of the local businesses help speak to the kind of things Mr. Cook walked about by providing good examples of how to get involved in the community. With this as a line in the sand, and because it is a cap and not a ban, Mr. Barille thought it might help to bring the business community together in the way they market themselves and engage the community. Mr. Barille thanked everyone for their efforts and he looked forward to following it through the process.

Frank Lindhorst stated that the work that has been done was professional and well-thought out. He believed it was a matter of thrive or survive. They were creating a restriction that may benefit a local business to survive, but also to thrive. To help them thrive would be even better. He suggested that rather than seeing it as a restriction, they could look at it as a benefit to the local business owners or the small mom and pops to incentivize and help them be better. He suggested a tax benefit or other types of incentives for local businesses would help them to thrive and not just survive.

Angela Moschetta asked to make an additional comment on behalf of Casey Crawford, the owner of Prospect Boutique, who was unable to attend the meeting. She stated that some people see this ordinance as a restriction, but she felt that it was part of a natural evolution in Park City. She echoed the comments made about this not being a way to give an unfair advantage to small business. In Ms. Crawford's space at Prospect, there are micro-economy spaces. Ms. Crawford is a lessor, and she sub-leases to Billy's Barber Shop and Pink Elephant on the second floor. The same model is being applied to the Park City Mercantile down the street, where two additional businesses are going in upstairs. Ms. Moschetta suggested that if the commercial real estate brokers and landlords decided to get more creative, they would not have to see this as limiting rent per square foot. When those spaces are broken up the landlord gets more per square foot than if they just had one renter. Ms. Moschetta did not see this as an issue of mom and pops not being able to sustain spaces. Instead, it is supporting more creative use of space, and adding more businesses to the business

district, as well as adding more vibrancy and supporting the City's long-term plans to create micro-retail and restaurant spaces.

Vice-Chair Joyce closed the public hearing.

Commissioner Band complimented the Staff on great work. She thought it was nice to hear the public praise them. Commissioner Band struggled with this because it is hard for her to limit private property rights. However, she was as appalled as anyone to see L.L. Bean going into Kimball's old space. She thought the 20% number could be less, but she was more comfortable knowing that real estate businesses were included in that number. Commissioner Band stated that walking up and down Main Street she did not think it was overwhelmed with chains, but she was concerned that it might feel that way if they add three or four more chains. She liked the pipeline idea because it is not fair for someone to be pushed out of the que while their space is being built. Commissioner Band agreed that it would difficult to make this perfect and it may need to be tweaked. She commented on the possibility of gives and gets for chain stores, similar to what they do with subdivisions, if they have reached the cap but another chain store wants to come in and be a good partner in the community.

Commissioner Thimm agreed with Commissioner Band regarding the pipeline process. He was unsure how they could capture them early in the process, but he would not want someone to go through a large investment and not be able to occupy the space or obtain a business license. Commissioner Thimm questioned limiting the market, but at the same time he looks at the goals of the General Plan and the requirement to embrace the General Plan. He was in favor of the proposed ordinance because it speaks to minimizing the impact of chain stores. Commissioner Thimm supported the 20% number because he felt the analysis backed it up sufficiently in the Staff report.

Commissioner Suesser thought the problem with the pipeline is the problem that the landlord who had Sotherby and Overland pointed out. If he loses them as tenants, he might not be able to replace those tenants with other chain tenants because others might be in the pipeline for other spaces. She believed the approach to the pipeline needed more consideration, and the process of business licensing needed to be considered. Commissioner Suesser likes where this starts, but she thought it needed more refinement and tweaking. She liked the idea of incentivizing small business owners to stay and come to Main Street, and for landlords to get creative with their space as Ms. Moschetta had pointed out with Billy's Barbershop and the Pink Elephant. It is a wonderful solution and she would like to see more of that on Main Street. Commissioner Suesser agreed that the 20% was backed up with good analysis, but she thought it was a little high. She understood about being on shaky legal grounds if they hold on to some discretion in terms of the right mix and balance on Main Street, but she

preferred to find a way to hold on to some discretion to keep just any chain from coming in. She also suggested the possibility of keeping a certain space between like businesses; or limiting the number of chains side by side along Main Street. Commissioner Suesser thought adding those types of conditions would be helpful.

Commissioner Phillips agreed with his fellow Commissioners in general. In looking at the list and how many businesses are new, even though it was only a few stores, he felt like Main Street has changed over the last few years. He spends a lot of time on Main Street and loves it. Commissioner Phillip agreed that the logic behind the 20% was backed up by the analysis; but he thought the number was high. If they currently have 13 chains and the total between the two districts is 28, they could potentially have three times as many of what they actually see as chains. He believed it would change Main Street. Commissioner Phillips preferred a smaller number. Otherwise, he liked the idea and thought it would help to keep Park City a small town and a place where they all want to stay.

Assistant City Attorney McLean provided the legal framework of the proposal. She stated that in their research, the more discretion you give, the more likelihood of a lawsuit, and a higher chance of losing the lawsuit. The Staff looked at the CUP process used in California and felt that it was not a good idea to achieve the goals that were set in Park City, because based on Utah law, conditional use is an allowed use. Therefore, they do not have much discretion in saying which ones they want or do not want. Ms. McLean stated that it needs to be as bright line as possible. Putting together a pipeline is doable, but they would first have to work out some of the issues.

Commissioner Campbell supported Commissioner Suesser's idea to geographically spread out the chain stores. Another issue is the number that no one else has mentioned, which is the 11% vacancy rate. He was unsure what that has been historically, but he found it to be shockingly high. Planner Tyler replied that the 11% vacancy rate is affected by the construction at Kimball, as well as the new 820 Park Avenue. They are trying to lease those spaces. Under the new vacancy ordinance, some of those will not count towards vacancy. Construction will not count and actively trying to lease will not count.

Commissioner Campbell did not think it made sense not to count a space that someone was actively trying to lease. He thought the ones having the hardest time leasing should count the most. He was concerned about walking up and down Main Street and seeing dark spaces. Commissioner Campbell wanted everyone to understand that if they send a positive recommendation to the City Council, they would be saying that in some cases they would rather have spaces sit empty rather than lease it to a name that people recognize. He thought they should have some kind of failsafe that if real

vacancy rates go above a certain number, there is a sunset. He suggested that the sunset might be that it automatically goes back to the City Council. Commissioner Campbell wanted the Planning Commission to go on record saying that if it comes down to leaving the stores empty or having a chain store, the preference would be to reduce the high vacancy rate. He believed that seeing vacant stores on Main Street terrify potential shoppers much more than seeing another Patagonia logo. Planner Tyler offered to look into it.

Director Erickson stated that if they were to get a positive outcome, the Planning Commission could forward a positive recommendation to the City Council to pass this ordinance with a Planning Commission suggestion to consider a lower rate, consider a pipeline, and some consideration for spacing and order of buildings. It would be up to the City Council to make the policy decision.

Commissioner Thimm asked if there was the option to continue this item and give the Staff the opportunity to provide a clean version for the Commissioners at the next meeting. Director Erickson replied that they could continue, but there were timing issues with potential business licenses coming forward and they would like to have a pending ordinance in place.

Commissioner Band was concerned that if they have another economic turn and they have more vacancies and allow more chains, when the economy improves they will not get those spaces back and they will be left with chain stores and a Main Street Mall. Commissioner Band was uncomfortable adding that caveat to a recommendation if the goal is to keep Park City authentic. She would rather offer incentives to local businesses or other creative solutions to keep the spaces occupied. Commissioner Campbell thought Commissioner Band made a good point.

Vice-Chair Joyce stated that his biggest concern was the appearance that they were trying to support the small business mom and pops; however, that was not the focus. The focus was more along the lines of uniqueness. They do not want Main Street to feel like the outlet mall or City Center or other places. From the standpoint of the ordinance, he would not care who owns the business. Commissioner Joyce thought the recommendations from both the public and the Commissioners about incentivizing small business to help them survive is a completely unrelated discussion. From the standpoint of what they were trying to accomplish, he was not interested in crafting which places fit into the right vibe. He cares about whether or not it is unique; and when you put enough unique together the town becomes unique and Main Street becomes unique.

Vice-Chair Joyce was concerned about the different rules and the lines where the storefront rules would apply. He had agreed with the ones that were high enough or back enough to where it clearly was not Main Street store frontage. However, there were other things where they eliminated buildings, did not do either side of Park Avenue, and it stopped at 8th instead of going down to 9th; and now suddenly this was the whole zone. The Planning Commission made a conscious decision to do something other than the zone boundaries with some very relevant rules, but now it would be harder for people to figure out what applies to them. Vice-Chair Joyce thought they were making things more complex.

Vice-Chair Joyce thought 20% was too much. The Staff had intentionally written the definition to be very generic so it can apply to Patagonia the same as it would apply to McDonald's. There is no differentiation between a restaurant and retail. Vice-Chair Joyce remarked that retail is what is happening right now; but there is very little retail below Heber. It is primarily restaurants and other uses such as the Victory Ranch Club. Vice-Chair Joyce stated that in looking at the very small space going down to 9th Street, if they continue the trend of it mostly impacting retail versus restaurants, it is essentially all chains. He would extend that going up from Heber as well, because the same applies. Vice-Chair Joyce could imagine how it would look and feel if all of the 9 and 19 go to retail. It would make a dramatic difference in how Main Street feels from a shopping standpoint. He pointed out that people will go to several retail spaces and only one restaurant to have lunch. If the bulk of the retail is all chains, it would have a disproportionate impact. Vice-Chair Joyce was unsure how to address it other than to lower the 20%. Vice-Chair Joyce liked the analysis using the linear feet, but multiplying everything by 20% was more like grabbing a number.

Vice-Chair Joyce thought it might help if there was a way to separate the retail from everything else. He liked the idea of some consideration for adjacency, but he was concerned that it could become complicated. He favored breaking it up to avoid the feeling of walking through 200 yards of mall.

Vice-Chair Joyce noted that there was precedence for issues like building out and not being able to obtain a business license. Restaurants encounter that same issue with liquor licenses. He was certain that other communities have addressed the issue of investing before obtaining a license, and he suggested that the Staff research those communities to see how it is handled.

Vice-Chair Joyce liked what the Staff had done, but he reiterated his belief that the number is too high. He had more concerns with below Heber because they draw the lines different every time. He suggested that they consider bringing it all back together like they did with the 50' façade.

Commissioner Suesser asked if the Staff had looked at different types of chains like restaurants versus retail, and whether or not a mix was considered. Director Erickson replied that they go back to what Ms. McLean had said with respect to consistency. Currently, it is all retail and there are no restaurants that meet the definition of a chain in either of the Districts. He explained that one of the economic development strategies is that some portion of power with conventional chain business is the ability to have a national marketing presence. They wanted to do whatever they could to enliven the portion of the Marriott Mall inside. If driving a chain business to the outside would drive business to the inside, it might improve the conditions of that section of the street. The Staff brought forward the 15% number early in the process, but they were given direction to move it closer to 20%. They now focus on the 80% non-conventional chain businesses.

Vice-Chair Joyce stated that when the Staff takes their recommendation to the City Council, he suggested that they give the Council something that shows what retail would look like in the two zones if everything continues down the path they are currently on and filled up with just retail. He thought the City Council should have that to think about when they say that 20% is better than 15%.

Planner Tyler thought the majority of the Commissioners had indicated that 20% was too high. She noted that the Staff report lists alternative percentage of caps. If as part of their recommendation they prefer a lower number outlined in the two tables, the Staff could take that option to the City Council.

Commissioner Phillips stated that he personally preferred. Commissioners Band and Suesser agreed. Commissioner Thimm stated that he could support 15%. Vice-Chair Joyce believed there was unanimous support from the Planning Commission for 15%. He thought they should have the same percentage for both the HRC and the HCB for consistency.

On the question of whether special preference would be given to a chain if it was replacing another chain tenant, Vice-Chair Joyce thought the answer should be absolutely not. It is fair business competition for space. He also thought they need to think through the conditions for pipelining to avoid people jumping in the queue to hold a spot. Commissioner Thimm agreed.

Director Erickson remarked that a reduction to a 15% cap would go from 9 to 7 in the HRC and from 19 to 14 in the HCB.

Assistant City Attorney McLean stated that her math showed that the Staff had rounded up from 6.4 to 7. Planner Tyler replied that they treated it like the parking requirement, footprint and everything else. It rounds up to the next whole.

Commissioner Campbell requested that whoever makes the motion should include a request that the City Council look at this on a regular basis, because if it has the unintended consequence of driving up the vacancy rate, it would have been a big mistake.

Assistant City Attorney McLean stated that one of the key components to this kind of ordinance is preserving the historic character of Main Street, and that has found to be defensible. Vacancy is a separate issue.

Vice-Chair Joyce agreed with Commissioner Band's comments about downturns in business cycles.

Planner Tyler commented on the vacancy ordinance and noted that a temporary liquor permit cannot be pulled during Sundance if the building has been vacant for more than 100 days. She believed that would encourage the property owners to lease their spaces.

Based on the discussion, Director Erickson stated that the motion would be a positive recommendation to the City Council regarding the LMC changes referenced in the Staff report, with the revision of no more than 14 conventional chain businesses in the HCB and 7 chain businesses in the HRC as outlined in the proposed ordinance, with the following recommendation that the City Council consider the comments of the Planning Commissioner with respect to the order of issuance of conventional chain business licenses, discuss looking at the process at some point in the future, and consider the effects of adjacency in order to maintain the historic nature of the street.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the LMC Amendments regarding Conventional Chain Businesses as stated by Director Erickson. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Planning Commission Meeting
July 26, 2017
Page 51

The Park City Planning Commission Meeting adjourned at 9:45 p.m.

Approved by Planning Commission: _____

Noise Ordinance Amendments

Noise is a common concern for local jurisdictions. With population growth and ongoing development (including a nationally growing trend of mixed use buildings) the separation between uses decreases and the number of potential sources of sound increases, compounding the potential for noise conflicts.

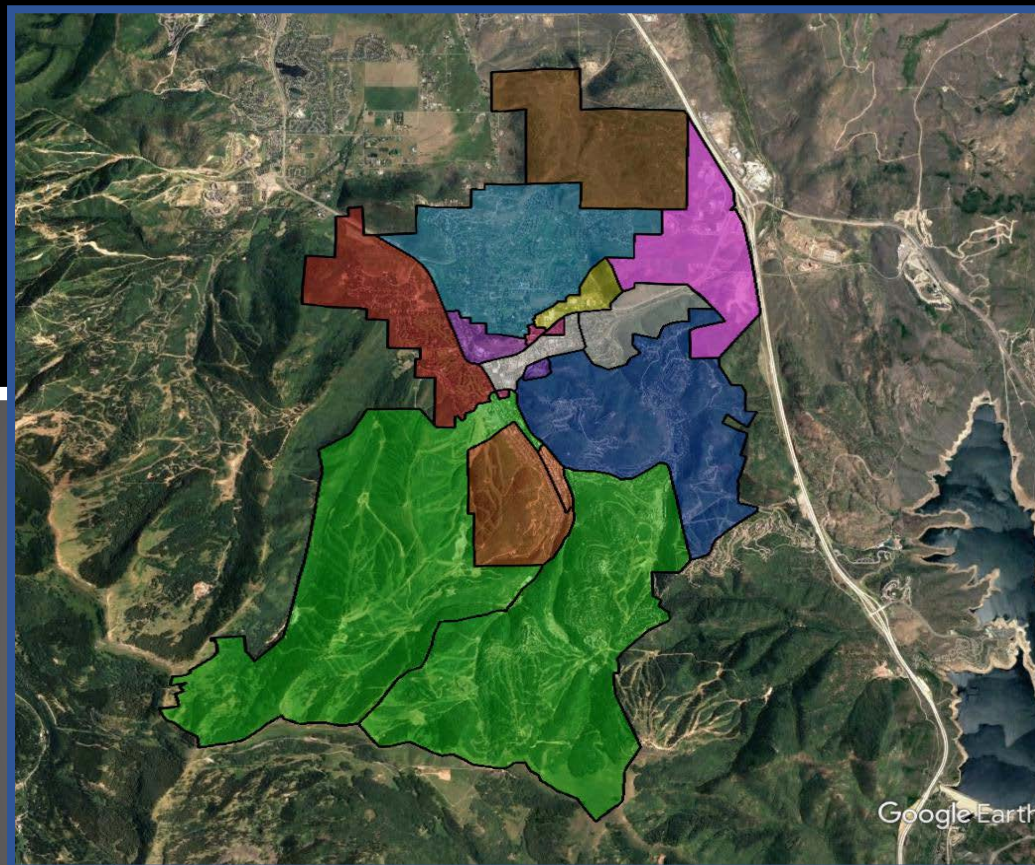
The noise ordinance can be used as a tool to address noise conflicts within Park City between residents and business owners.

Noise Ordinance Amendment Considerations

- Constitutionality
- Address disputes in between use districts (residential vs commercial)
- Noise tolerance can be determined by many factors- time of day, place (zone), manner (loudness, frequency, duration)
- Enforcement will be key

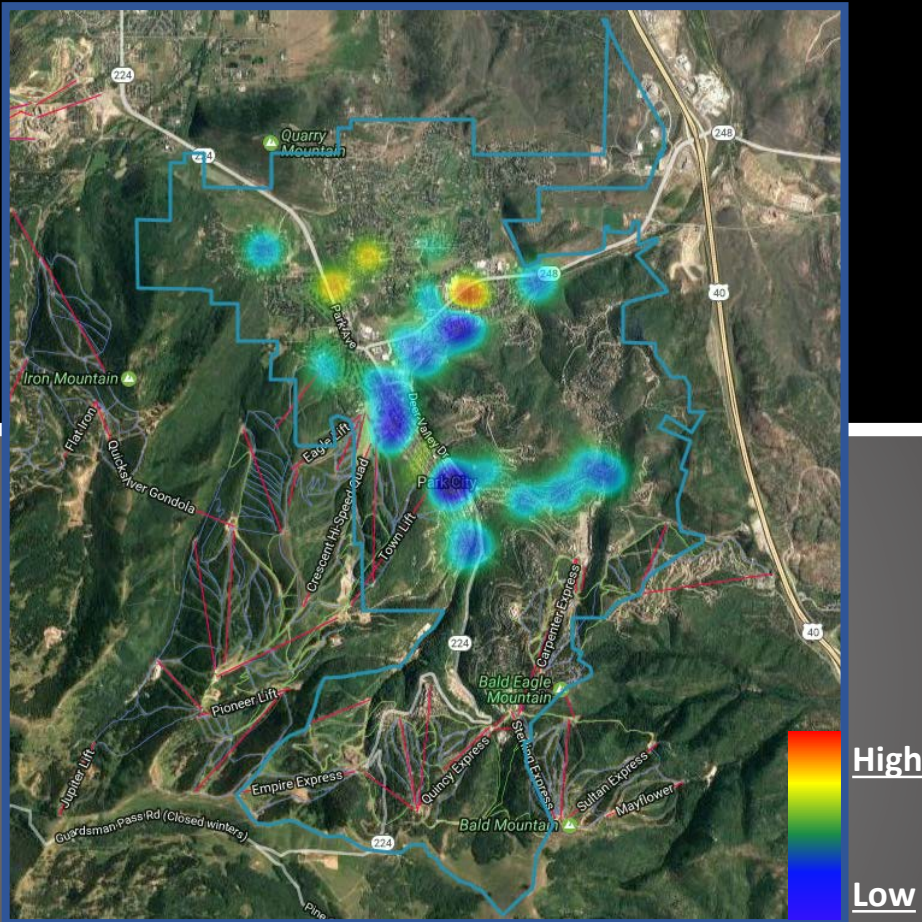
Disturbing the Peace

A disturbing the peace analysis was performed to identify trends and determine a rise or fall in reporting in the PCPD jurisdiction. While disturbing the peace calls for service are relatively minimal, this report identifies the times and locations of when disturbing the peace calls typically occur, as well as the times of when they are more likely to occur.



Disturbing the Peace Trend Analysis

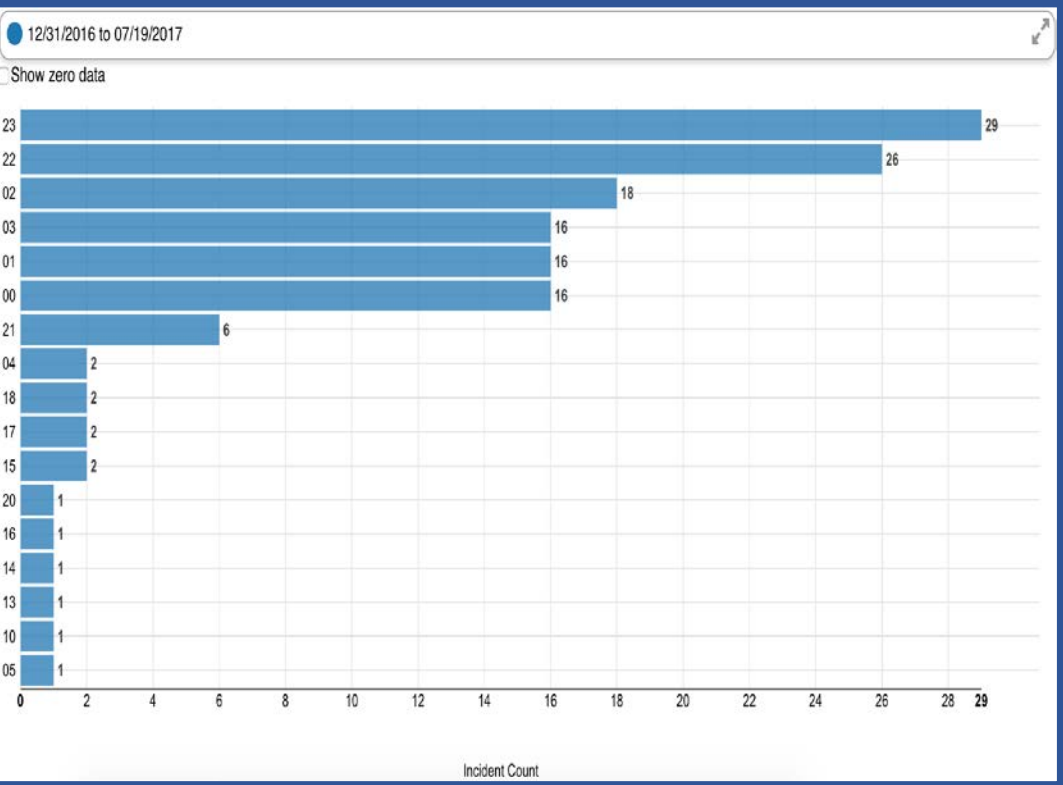
Command Central trend analysis factors in calls for service based on rate, location, and time of occurrence. Based on the reported disturbing the peace calls received by the department, Command Central shows an overall decrease in the amount of reporting and projects a continued decrease in occurrence for disturbing the peace related calls.



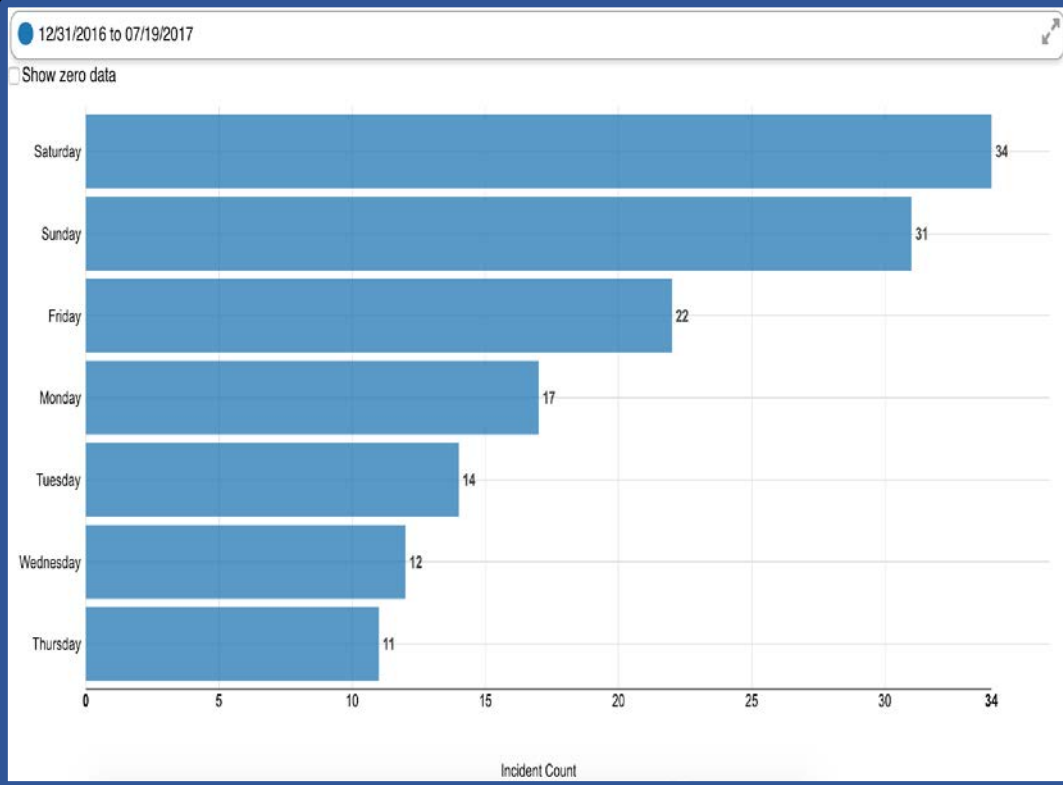
2017 Daily and Hourly Breakdown

Calls received for disturbing the peace mostly occur between 10:00PM – 03:00AM, with the majority of these calls occurring between 10:00PM – 11:00PM. Predominately, Friday, Saturday, and Sunday show the highest amount of reported calls.

Hourly Breakdown



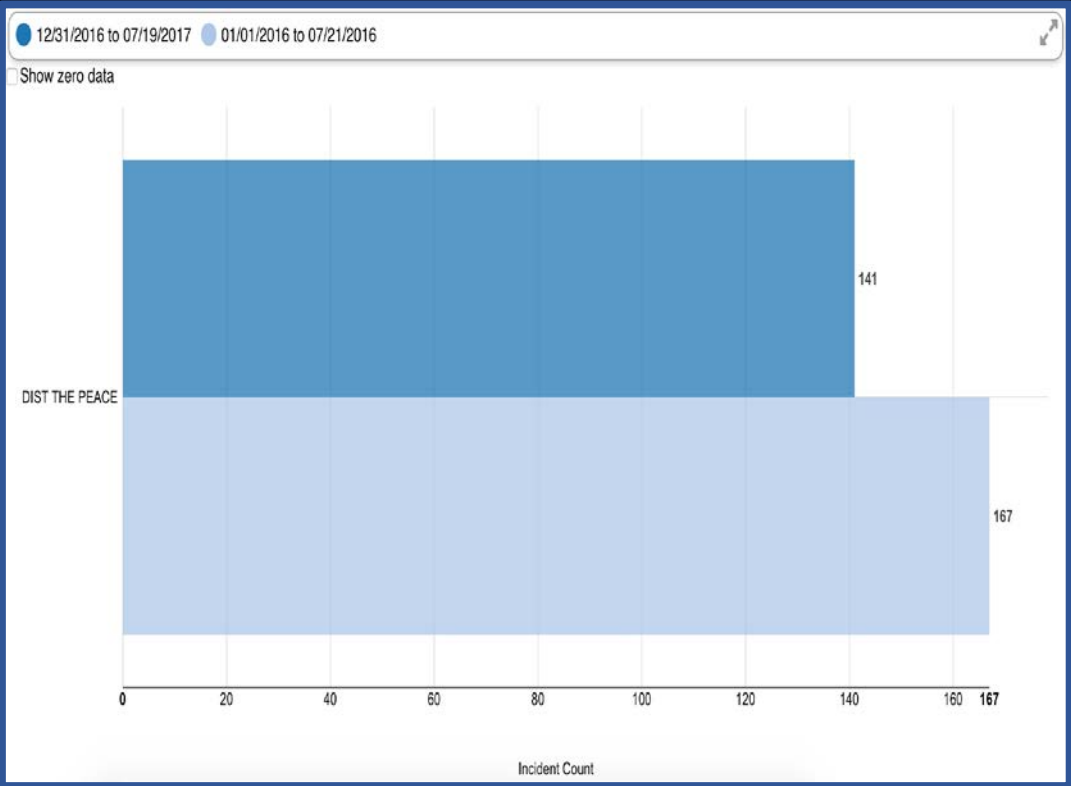
Daily Breakdown



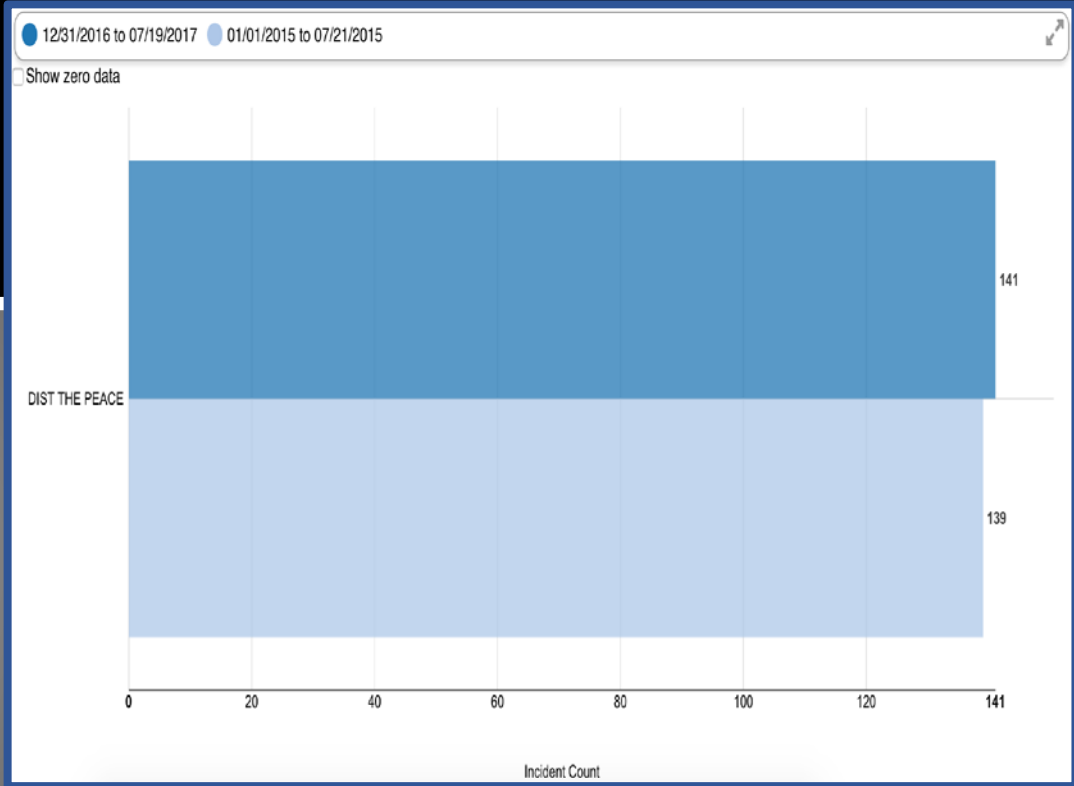
Disturbing the Peace, 2017 in comparison

From January 1st 2017 – July 21st 2017 there have been 141 reported instances of disturbing the peace. This is 26 less than 2016 which had 167 incidents during the same reporting period and 2 more than 2015 which had 139 reported instances.

2017 vs 2016

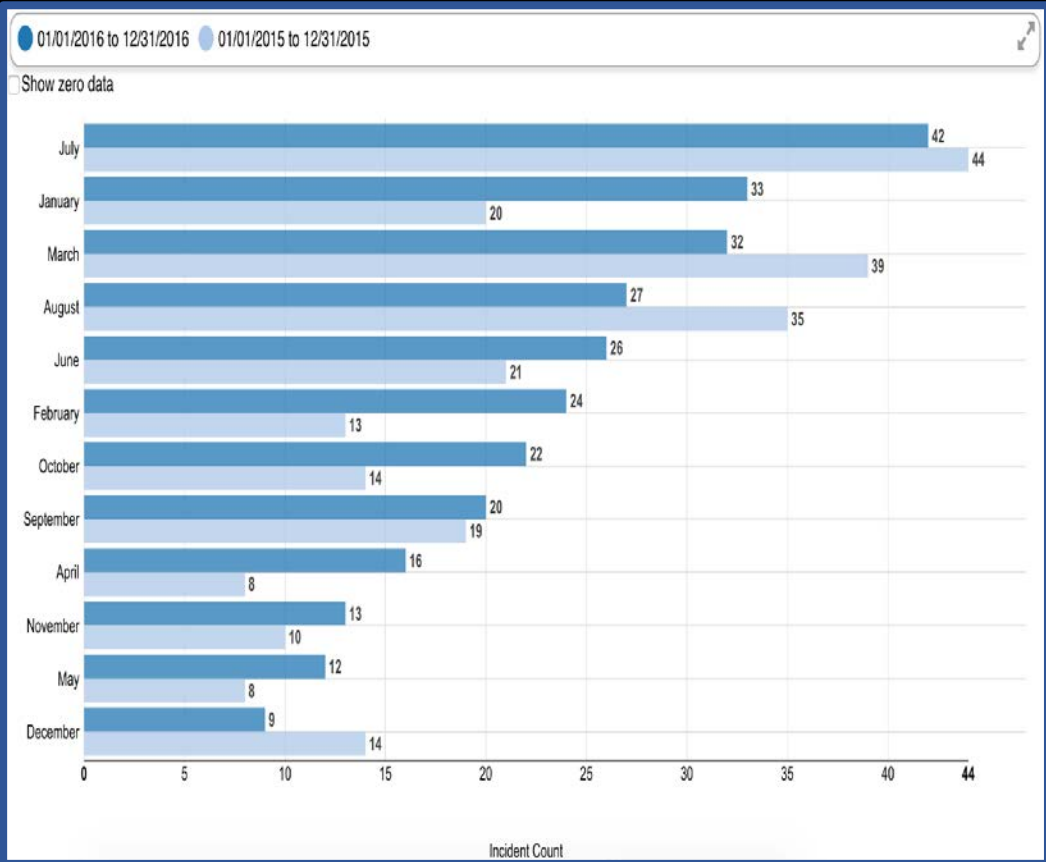


2017 vs 2015



Disturbing the Peace Historical Data

Historic data pulled from the last 2 years shows that January and March are two of the three highest reported months, with February being in the top six. Based on historic data as well as the observed incidents year to date, 2017 will potentially be the lowest year of disturbing the peace incidents in the last two years.



3 Goals

- (1) The proposed Noise Ordinance amendments bring the noise ordinance into compliance with the U.S. constitution.**
- (2) The proposed Noise Ordinance amendments establish a standard to resolve disputes in different use districts.**
- (3) The proposed Noise Ordinance amendments make minor changes for clarity, consistency and style.**

Noise Levels

A) Maximum Permissible Sound Levels

- ninetieth percentile for 10 min within the boundary or at any point within the affected property
- When a noise can be measured in more than one land use category, the less restrictive use shall apply at the boundary

	Monday through Saturday	
Use District	10:00 P.M. – 7:00 A.M. (6:00 A.M. if commercial)	7:00 A.M. (6:00 A.M. if commercial) – 10:00 P.M.
Residential	50 dBA	55 dBA
Commercial	60 dBA	65 dBA
	Sundays	
	10:00 P.M. – 9:00 A.M. (6:00 A.M. if commercial)	9:00 A.M. (6:00 A.M. if commercial) – 10:00 P.M.
Residential	50 dBA	55dBA
Commercial	60 dBA	65 dBA

120
dB

- Chainsaw, Thunderclap

110
dB

- Live Rock Music

100
dB

- Motorcycle, Outboard Boat Motor

90
dB

- Arc Welder

80
dB

- Alarm Clock

70
dB

- Vacuum Cleaner, Coffee Grinder

60
dB

- Conversations inside a Restaurant, Sewing Machine

50
dB

- Refrigerator, Quiet Suburb

Noise Levels

B) Correction for Duration of Sound

- Tenth percentile of 15 dBA greater than allowed
- Tenth percentile of 15 dBA greater than ambient and ninetieth percentile of any 10 minute period

C) Any pure tone, cyclically varying sound or repetitive impulse sound will have the permitted dBA reduced by 5 and may not create a noise disturbance

D) Limits of the least restrictive use shall apply at the boundaries.

Relief from Noise Restrictions and Exemptions Remain

- Chief of Police- special events and community or private functions or events
- Building Official- Building Issues
- Exemptions- warning devices, emergency vehicles, emergency work, lawful fireworks, snowmaking, golf course maintenance, snow plowing, ten o'clock whistle, public outdoor music plazas and noise from an approved HVAC system (new)

Joint Enforcement Pilot Program

- Both the Police Department and Building Department (code enforcement) respond to noise complaints and address violations with an education based approach which allows for verbal warnings prior to escalated enforcement action (criminal or administrative citations).
- 3 month Pilot Program intended to cross-train between departments

Goals and Benefits

- Strategic enforcement: proactive for blatant or and an escalation of enforcement action to reoccurring violations; otherwise complaint-based
- Demonstrated presence and awareness to the community
- Consistency in resulting enforcement action (criminal or Administrative Citations)
- Identify and address Priority Areas: Main St; Prospector; Old Town
- The ultimate goal is compliance, not necessarily fines or sanctions

Enforcement Considerations

- **Advantages** of additional enforcement include:
 - Local businesses with ongoing issues may choose to address the overall performance of their venue (through sound dampening material and designs);
 - Increased compliance and accountability for violators; and
 - More peaceful standard of living for residents.
- **Disadvantage** of additional enforcement include:
 - Impacts to local businesses and restaurants that have outdoor dining and operate primarily in the evening; and
 - Public concern regarding over-regulation of private parties and other activities.

LMC Chain Amendment Handout #1

Louis Rodriguez

From: Hannah Tyler
Sent: Wednesday, July 26, 2017 2:53 PM
To: Adam Strachan; Douglas Thimm; Melissa Band; Preston Campbell; Steve Joyce; John Phillips; Laura Suesser
Cc: Louis Rodriguez; Bruce Erickson; Polly Samuels McLean
Subject: FW: Conventional Chain Business LMC Amendment

Follow Up Flag: Follow up
Flag Status: Flagged

Planning Commissioners:

Please see the email (Public Comment) below regarding the proposed Land Management Code Amendments for Conventional Chain Businesses. This item will be discussed this evening on the Regular Agenda.

Thanks,
Hannah

Hannah M. Tyler | Planner
Park City | Planning Department
445 Marsac Avenue | P.O. Box 1480
Park City, UT 84060-1480
(435) 615-5059



From: Jonathan Weidenhamer
Sent: Wednesday, July 26, 2017 11:56 AM
To: Jon-Eric Greene
Cc: Bruce Erickson; Hannah Tyler
Subject: RE: Conventional Chain Business LMC Amendment

Thanks for including me.
I will make sure we get this included into the City Council packet.
I've CC'd our Planning Dept. as well.

Jonathan

From: Jon-Eric Greene [mailto:jeg@greeneprop.com]
Sent: Wednesday, July 26, 2017 11:54 AM
To: Council_Mail
Cc: Jonathan Weidenhamer; Michelle Kellogg
Subject: Conventional Chain Business LMC Amendment
Importance: High

Dear Council Members,

I am writing to express my concerns with the Chain Store Ordinance that is currently under consideration for Main Street. Having spent the better part of 30 years working within the commercial real estate world, as well as many

successful resort retail markets, I consider myself well informed on this topic. I have studied numerous markets that have passed similar ordinances, and have found that in most cases the negatives far outweigh the positives, and in many cases these regulations lead to economic decline and physical degradation. This is a very serious topic that requires careful consideration.

I grew up in Aspen in the 70's and 80's. Many of my friends families owned retail businesses. Today, very few remain in business...but those who do would now likely qualify as "Chain Stores" under your definition. Did the "Chain Stores" put them out of business? No, the evolution of retail, the internet, Fedex, the expansion of outdoor product stores to EveryTown USA created a global marketplace. The survivors are the businesses that continued to evolve, to improve, and to grow (into "Chain Stores" by your definition) to the point where they created enough profit for the owners to continue to live the expensive resort lifestyle.

Park City is experiencing many of the same growth issues that hit Aspen in the late 80's/early 90's. But Park City is not Aspen. Thankfully, given our proximity to Salt Lake City and our international airport, we have a robust year-round resident population, and a true, working middle-class. We suffer similar issues as Aspen and other resort markets with lack of affordable housing, seasonal workforce and living wages, but we have so much more potential given our geography and the economic diversity of both our population and our business base. We also have a number of locally born "Chain Stores" including Jan's, Cole Sport, and KÜHL, that we should be celebrating not regulating.

I support the effort to maintain Park City's unique character, but I don't believe this ordinance is going to accomplish this goal. I believe the physical limitations of the market – our small buildings and limited space - have maintained the character and quality experience. There 168 businesses on Main Street, of which 74 are retail businesses. 13 or 18% are "Chain Stores". Of these, 40% are either locally born or locally owned, leaving only 11% as true "Chain Stores". How do these "Chain Stores" impact the "vibrancy and character" of Main Street?

- Lululemon – likely the highest sales psf (and one of the highest in total sales) on Main Street thereby contributing more to the economic vitality than others; fully engaged in the community creating great careers and recreational opportunities for local residents and visitors; attracting more local customers to Main Street than any other business in the district resulting in more economic opportunity and vibrancy by engaging the local customer in addition to the visitor.
- Gorsuch – founded 55 years ago in Vail and still family owned by the Gorsuch Family; the Main Street store is the only store located outside of the state of Colorado. While clearly at the high end of the market, Gorsuch exudes the mountain lifestyle and has consistent brand quality and identity as Deer Valley. Not an "anywhere USA" retailer – a unique mountain lifestyle offering.
- Northface and Patagonia – two of the most iconic outdoor brands whose product and values are consistent with the Park City lifestyle. Both stores owned by Vail Resorts Retail.
- Roots – I believe they came for the Olympics and never left. Most visitors likely assume they were founded on Main Street. The Olympic Spirit lives on through this store.
- Rocky Mountain Chocolate Factory – this is a franchise owned and operated by Chip and Kathy Pederson. Without this store, we wouldn't have Dolly's, one of the few remaining independent book stores that also helped introduce us all to Liza! Our kids would also lose a great opportunity for that first job given the high number of PCHS students that have worked here over the years.

I would argue that all of the above brands contribute positively to the Park City Experience – both for the visitor as well as the local resident. These businesses bring locals to Main Street which creates both economic and physical vitality for the street. These businesses provide meaningful stepping stones towards character development for our youth and career opportunities that extend well beyond Park City.

I agree that we do not want to see the typical "mall retailers" in Park City, but I believe the market forces are already protecting us from these players. Many have stores at the Outlets at Kimball Junction and no ability nor desire to open on Main Street. They recognize that the visitor is looking to buy products that are consistent with the Park City Lifestyle

and that their products would underperform in that location. The physical and economic forces are already addressing this concern.

The only constant is change. Today, the retail world is experiencing the most dramatic transformation it has since the mall was created more than 60 years ago – the landscape will be different tomorrow.

- How does one write an ordinance that will stand the test of time, when we have no idea what tomorrow will bring?
- What will the unintended consequences of this ordinance be?

Summit County had good intentions when they drafted the restrictions around the Park City Tech Center. How hard could it be to define land use requirements to limit the types of businesses we desired in the community? Reduce traffic by limiting the number of employees, how they came to work and the number of required parking stalls? It didn't take long to learn that this ordinance was inconsistent with market demands, thereby stifling the economic and physical vitality of the Center. We cannot afford to have a similar result on Main Street.

For years, the HPCA has worked to maintain the vitality of Main Street from the threat of retail sales dollars migrating to Kimball Junction. This ordinance will only accelerate that opportunity to create more opportunity for retail sales to migrate to Kimball Junction, The Canyons (the next resort shopping district?), and Bonanza/Prospector areas. While meant to protect the many members of HPCA, this ordinance will create significant economic risks for this district.

Thank you for your consideration of my comments. I am sorry that I cannot attend the hearing as I am out of town this week.

Respectfully,

Jon-Eric Greene

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LMC Chain Amendment Handout #2

Louis Rodriguez

From: Hannah Tyler
Sent: Wednesday, July 26, 2017 3:25 PM
To: Adam Strachan; Douglas Thimm; Melissa Band; Preston Campbell; Steve Joyce; John Phillips; Laura Suesser
Cc: Bruce Erickson; Louis Rodriguez; Polly Samuels McLean
Subject: HRC and HCB Business Inventory
Attachments: HCB and HRC Business Addresses and Names.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Planning Commissioners,

At the request of a Planning Commissioner, I have attached the inventory of HRC and HCB businesses. This list has been utilized for the Land Management Code Amendments addressing Conventional Chain Businesses in the HRC and HCB. Please note that these are the businesses that meet the definition of [Property, Storefront for the Storefront Enhancement Zoning](#).

We will discuss this item on the Regular Agenda this evening.

Thanks,
Hannah

Hannah M. Tyler | Planner
Park City | Planning Department
445 Marsac Avenue | P.O. Box 1480
Park City, UT 84060-1480
(435) 615-5059



HC B

ADDRESS	CURRENT TENANT
151 MAIN STREET	GRAPPA
186 MAIN STREET	PC DESIGNS
221 MAIN STREET	RIVERHORSE MARKET
227 MAIN STREET	VACANT (STAR HOTEL)
250 MAIN STREET	WASATCH BREW PUB
255 MAIN STREET	TREASURE MTN. INN.
260 MAIN STREET	SUSAN SWARTZ STUDIOS
268 MAIN STREET	PARK CITY TOURIST CENTER
	HOPE GALLERY (VACANT?)
	OP ROCKEWELL
301 MAIN STREET	MOUNTAIN TRAILS GALLERY
305 MAIN STREET	MEYER GALLERY
306 MAIN STREET	FIREWOOD
309-311 MAIN ST	SOCK CITY
312 MAIN STREET	SOUTHWESTERN EXPRESS.
	BRET WEBSTER IMAGES
314 MAIN STREET	DAVID BEAVIS GALLERY
	JIBERISH
317 MAIN STREET	THE EATING ESTABLISHMENT
322 MAIN STREET	RED BANJO
323 MAIN STREET	NORTHWOODS
	PINE JEWELRY & HOME
324 MAIN STREET	P.C. HARLEY-DAVIDSON
328 MAIN STREET	EGYPTIAN THEATER
333 MAIN STREET	
	DOUBLE DIAMOND SHOES
	KUHL
	GORSUCH
	LULU LEMON
340 MAIN STREET	EARTHLIGHT
	THOMAS ANTHONY GALLERY
350 MAIN STREET	350 MAIN (RESTAURANT)
352 MAIN STREET	THE SPUR
354 MAIN STREET	BERKSHIRE HATHAWAY
355 MAIN STREET	GORSUCH
361 MAIN STREET	BURNS COWBOY SHOP
364 MAIN STREET	ELEGANTE'
	IMAGES OF NATURE
368 MAIN STREET	CHIMAYO
401 MAIN STREET	LA NICHE
402 MAIN STREET	JAVA COW CAFÉ & BAKERY
405 MAIN STREET	SHIRT OFF MY BACK

408 MAIN STREET	ROOTS
	J GO GALLERY
412 MAIN STREET	BISTRO 412
416 MAIN STREET	O.C. TANNER
419 MAIN STREET	CROSBY COLLECTION
421 MAIN STREET	WOODBURY JEWELERS
424 MAIN STREET	CAFÉ TERIGO
425 MAIN STREET	DUGINS WEST CLOTHING CO.
427 MAIN STREET	ROCK & REILLYS
	DOWNSTAIRS BELOW ROCK AND REILLYS
	PC LIVE
	O'SHUCKS BAR & GRILL
430 MAIN STREET	PARK CITY JEWELERS
434 MAIN STREET	PURPLE SAGE
436 MAIN STREET	GALLERY MAR
438 MAIN STREET	FLANAGAN'S IRISH PUB
440 MAIN STREET	BANDITS GRILL & PUB
444 MAIN STREET	PANDO FINE ART
	PINE JEWELRY & HOME
	SHABU
447 MAIN STREET	NO NAME SALOON
449 MAIN STREET	ROBERT KELLY FURNITURE
450 MAIN STREET	U.S. POST OFFICE
461 MAIN STREET	ARTWORKS GALLERY
467 MAIN STREET	BACKSCRATCHER TEES
501 MAIN STREET	501 ON MAIN
505 MAIN STREET	MCMILLIN PHOTOGRAPHY
508 MAIN STREET	TUPELO
509 MAIN STREET	PROSPECT
510 MAIN STREET	ROCKY MTN. CHOC. FACT.
511 MAIN STREET	CAKE BOUTIQUE
513 MAIN STREET	OUTFITTER TRADING CO.
515 MAIN STREET	THE NORTH FACE
523 MAIN STREET	PARK CITY MERCANTILE
525 MAIN STREET	MAIN STREET DELI
518-528 MAIN STREET	PARK CITY MUSEUM
530 MAIN STREET	MAIN ST. PIZZA & NOODLE
531 MAIN STREET	FAMILY TREE CENTER
537 MAIN STREET	ALASKA FUR GALLERY
	BARANOF JEWELERS
540 MAIN STREET	MARMOT OUTDOOR GEAR
541 MAIN STREET	HILDA
544 MAIN STREET	PARK CITY TOURIST CENTER
545 MAIN STREET	FLIGHT BOUTIQUE

	OVERLAND SHEEPSKIN CO.
	SUMMIT/SOTHEBY'S
550 MAIN STREET	SOUTHWEST INDIAN TRADER
556 MAIN STREET	FATALI GALLERY
558 MAIN STREET	PARK CITY CLOTHING CO.
562 MAIN STREET	FLETCHERS
570 MAIN STREET	PREWITT GALLERY
573 MAIN STREET	PROSPECT GALLERY
577 MAIN STREET	LIVIN' LIFE
	PARK CITY FINE ART GALLERY
	SILVER QUEEN FINE ART
	CAKE BOUTIQUE
580 MAIN STREET	ALOHA SKI & SNOWBOARD
	OLD TOWNE GALLERY
	PARK CITY JEWELERS
	WHP GALLERY
586 MAIN STREET	YUKI YAMA SUSHI
591 MAIN STREET	LUNDS FINE ARE
592 MAIN STREET	HABIT BOUTIQUE
596 MAIN STREET	ROOT'D
605 MAIN STREET	BANGKOK THAI
	NORSK LEATHER & FUR
	FARASHA
	CHRISTIAN SCIENCE READING ROOM
608 MAIN STREET	OLIVE AND TWEED
	MONTGOMERY LEE
613 MAIN STREET	MARY JANE'S
	MOUNTAIN TOWN OLIVE OIL
614 MAIN STREET	ALPACA INTERNATIONAL
	ROCKY MTN SHIRT
625 MAIN STREET	TERZIAN GALLERY
	DEER VALLEY SIGNATURES
	SUMMIT SOTHEBY'S
632 MAIN STREET	PATAGONIA
628 PARK AVENUE	CHURCH PUBLIC HOUSE
HRC	
ADDRESS	CURRENT TENANT
660 MAIN STREET	ZOOM
692 MAIN STREET	VACANT
693 MAIN STREET	KELLER WILLIAMS REAL ESTATE
702 MAIN STREET	BANHOF SPORT
738 MAIN STREET	PANACHE
	ATTICUS

	PARK CITY SPORT
	COLLIES
751 MAIN STREET	GRACE CLOTHING
	RICH HAINES GALLERY
	OUTFITTER TRADING CO.
804 MAIN STREET	IMAGE EYES OPTICAL
825 MAIN STREET	VACANT
	CABIN
820 PARK AVENUE	HARVEST
	OTHER COMMERCIAL SPACE
838 PARK AVENUE	HAPPY SUMO
751 PARK AVENUE	THE CALEDONIAN
	BUTCHER'S CHOP HOUSE
703 PARK AVENUE	HIGH WEST
690 PARK AVENUE	DAVANZA'S
698 PARK AVENUE	UTAH SKI & GOLF
651 PARK AVENUE	HIGH WEST 2ND LOCATION
638 PARK AVENUE	KIMBALL ART CENTER
201 HEBER AVENUE	COAL AND LUMBER
255 HEBER AVENUE	BARCLAY BUTERA
UPDATED VIA WALKING SURVEY BY A CITY STAFF MEMBER JUNE 27, 2017	