



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
NOVEMBER 8, 2023**

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

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

1. ROLL CALL

Chair Sarah Hall called the meeting to order at approximately 5:30 p.m. She confirmed that all Commissioners were present in chambers.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from September 27, 2023.

MOTION: Commissioner Johnson moved to APPROVE the Planning Commission Meeting Minutes from September 27, 2023. Commissioner Van Dine seconded the motion.

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

B. Consideration to Approve the Planning Commission Meeting Minutes from October 11, 2023.

MOTION: Commissioner Van Dine moved to APPROVE the Planning Commission Meeting Minutes from October 11, 2023. Commissioner Sigg seconded the motion.

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

C. Consideration to Approve the Planning Commission Meeting Minutes from October 25, 2023.

MOTION: Commissioner Sigg moved to APPROVE the Planning Commission Meeting

Minutes from October 25, 2023. Commissioner Johnson seconded the motion.

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

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Assistant Planning Director, Rebecca Ward, reported that Regular Agenda Item 6.C. involves the initiation of a Pending Ordinance for Accessory Uses in Master Planned Developments. This item was scheduled for a public hearing. She reported that the Task Force was being formed and should be finalized shortly. They would meet through February, so Assistant Director Ward recommended shifting that item to the beginning of the Agenda and opening a public hearing before continuing the item to February 14, 2024. She also stated that the two Work Session items on the Agenda were not scheduled for public input; however, for the Code Amendments on incentivizing affordable housing and multi-modal transportation, they have an online survey on www.engageparkcity.org that would be open through November 22, 2023. She noted this provided an opportunity for community members to provide input online. Residents could also email comments to planning@parkcity.org.

With regard to the Land Management Code ("LMC") Amendments on Accessory Uses, Commissioner Laura Suesser asked about the status of Code requirements and whether the Pending Ordinance had been issued.

Assistant Director Ward explained that on October 25, 2023, Staff publicly noticed the hearing for tonight and issued the Pending Ordinance that was included in the Packet. New applications would be reviewed under the Pending Ordinance.

4. PUBLIC COMMUNICATIONS

There were no public communications.

5. CONTINUATIONS

- A. Land Management Code Amendments – Accessory Uses in Master Planned Developments** – The Planning Commission Will Conduct a Public Hearing on Potential Amendments to Land Management Code Section 15-6-8 Master Planned Development Unit Equivalents to Limit Support Commercial within Residential Master Planned Developments, Meeting Spaces within Hotel or Condominium Projects, Residential Accessory Uses, and Resort Accessory Uses.

Chair Hall opened the public hearing on this item. There were no public comments.

MOTION: Commissioner Johnson moved to CONTINUE Land Management Code Amendments – Accessory Uses in Master Planned Developments – and the public hearing thereon to February 14, 2024. Commissioner Van Dine seconded the motion.

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

6. WORK SESSION

- A. Land Management Code Amendments** – Consultants Lisa Wise Consulting, Inc., Cascadia Partners, and Fehr and Peers Will Present their Initial Report Regarding Opportunities to Amend the Land Management Code to Incentivize Affordable and Missing Middle Housing and to Improve Transportation Demand Management Criteria.

Assistant Director Ward stated that the City's consultant, Lisa Wise Consulting, was present along with their sub-consultants, Cascadia Partners, and Fehr & Peers. These consultants and sub-consultants were working on LMC Amendments to incentivize affordable and attainable housing opportunities beyond the Affordable Master Planned Developments ("AMPD"). The consultants and sub-consultants would also establish criteria to support multi-modal transportation. Staff scheduled two hours for this discussion.

Jennifer Murillo from Lisa Wise Consulting ("LWC") introduced herself as the Project Manager for the consultant team on this project. Ethan Stan and Andrew Davidov were also present from LCW. She introduced Jamin Kimmell and Lydia Ness from Cascadia Partners and Ivana Medina from Fehr & Peers.

Consultant Murillo stated that the consultant team has been working closely with City Staff and would continue to do so. She specifically mentioned Assistant Director Ward and Affordable Housing Manager Jason Glidden, Transportation Planning Manager Julia Collins, and Transportation Planner Hannah Pack. She would provide an overview of the project and review the Initial Report. Consultant Kimmell will cover the Housing Strategies, and Consultant Medina will present the Transportation Strategies.

Consultant Murillo explained that this project involves amending the Land Management Code to facilitate the City's goals for affordable housing and transportation. These goals were outlined in a number of adopted policy documents, namely the General Plan, Park City Vision, and the Five-Year Moderate Income Housing Plan. She also mentioned Park City Forward and the Transportation Demand Management Report. The documents adopted by the City direct bold action to be taken by the City to amend the LMC in a manner that would facilitate and advance affordable housing, and reduce vehicle miles traveled and congestion in the City.

Consultant Murillo stated that the consultant team would take this guidance and direction and implement it through amendments to the LMC. This was a priority project with a focused timeline. They began work in the fall, with an initial outreach phase that informed the team's work. She noted they performed an analysis of barriers and Best Practices, which were summarized in the Initial Report included in the Packet. She explained that the analysis looked at the barriers within the existing Code to achieving

the City's affordable housing and transportation goals. They also set forth some Best Practices or strategies to help address those. After tonight's Work Session and the closure of the community survey, they would begin drafting the Code amendments. Consultant Murillo reported the target was to have the draft amendments ready for public review by the end of the year.

Consultant Murillo explained that the outreach included focus group discussions and interviews with experienced housing developers. They also conducted internal advisory groups and held a community workshop. In addition to tonight's Work Session, there was also an online survey at www.engageparkcity.org that would be open through November 22, 2023. The outreach involves residents, businesses, resorts, non-profits, residents of affordable housing, employers, and others to obtain information about priority items. They largely found that the outreach echoed or enforced the adopted direction to take some significant effort and meaningful changes in the Code to advance affordable housing and transportation. She mentioned that some of the feedback related to accommodating more housing types, streamlining housing development review, and looking at ways to reduce parking in coordination with strategies that would lower the parking demand.

With regard to the Initial Report, she explained that it looked at identifying the barriers in the Code that do not align with the City's objectives for housing and transportation. In that context, the Report also addressed what could be done in terms of strategies to alleviate those constraints and encourage affordable housing in Park City. She noted that the strategies covered a range of different types of allowed housing, limiting the scope of discretionary review, and looking at modifying standards and incentives to accommodate and promote affordable housing.

Similarly, with respect to transportation, Consultant Murillo explained the Initial Report addressed barriers within the existing Code that do not align with the City's goals, as well as strategies that cover the range of items, including pedestrian and bicycle connectivity within developments, right-sizing parking ratios, alternative ways to meet parking standards and clearly stating when it would be acceptable to allow for parking reductions.

Consultant Kimmell reminded the Commission that Cascadia Partners previously worked on some amendments to the Affordable Master Planned Development program. He introduced Consultant Ness, who provided information on initial background and recommendations.

Consultant Ness reported that she is a Senior Associate with Cascadia Partners, with a background in housing policy and code analysis. She started by explaining the various terms and types of affordable housing. "Deed restricted affordable housing" involved a binding document on a property that preserved affordability. She remarked that Park City requires that deed-restricted affordable housing be priced for household incomes at or below 80% of Area Median Income ("AMI"). She added that providing deed-restricted affordable housing was one option to meet the City's inclusionary housing requirement.

Consultant Ness next identified “lower cost market rate housing” as housing that already exists or is part of a lower-cost development that can achieve more affordable or attainable rent or sales prices for middle-income earners. Often these units might be referred to as workforce housing or attainable housing. She noted that these units do not receive any sort of public subsidy and were typically not deed-restricted.

She next identified “missing middle housing” and explained that it referred to a wide-range of housing types of scale and density that fall between Single-Family detached units and multi-unit apartments. Often these were duplexes or triplexes, and sometimes townhomes. The scale of this housing type would be comparable and compatible with Single-Family homes while including higher density.

Consultant Ness next addressed “community-oriented housing,” or a complete community. She noted that an important component of this type of housing was transit and proximity to transit to help reduce the need for car trips to meet daily needs. Another key component was that new development be higher density to support the mix of uses and transit ridership that is the goal of this type of housing.

Consultant Ness reported on the zones that were analyzed and stated that they identified six zoning districts, which were selected based on their proximity to transit. They identified some of the barriers to building missing middle housing and higher-density community-oriented housing. The first recommendation pertained to missing middle housing opportunities. She reiterated that this type of housing could be compatible with lower-density neighborhoods with predominantly Single-Family homes, yet provide options for smaller and more affordable or attainable units. She noted that this housing could appear as a Single-Family home from the exterior, and there were design and development standards that could be applied to ensure that these housing types could be compatible in these zones.

Consultant Ness stated that the team’s recommendation was to allow duplexes, triplexes, and fourplexes in the Single-Family (“SF”), Historic Residential – 1 (“HR-1”), and Residential Development (“RD”) zones when the location would be close to transit. There was discussion about Commission questions during the presentation. Chair Hall stated they could save substantive questions and comments after the presentation, and allow clarifying questions during the presentation.

Commissioner Johnson asked which housing type would include workforce housing. Additionally, he asked about the suggested AMI for missing middle housing. Consultant Ness explained that workforce housing was captured in the missing middle housing types, and was generally in the range of 100 to 120% AMI. She noted it was a little higher than the deed restricted affordable housing, and was designed more for the middle-income earners.

Commissioner Suesser asked for an example of housing in Park City that would fall in the missing middle category. She noted that the definition seemed very broad if it

included attainable housing, and requested a better definition of this category. Consultant Kimmell offered that the term primarily referred to the form of housing and not as much the affordability. He stated they would report on the opportunities to have some incentives in place so that some portion of the units in a middle-housing project could be deed-restricted affordable at some income level. He added that currently, the City did not have any incentives that would make it easy to build the type of smaller-scale project where only a few of the units were affordable. In the context of tonight's discussion, he stated that missing middle housing was the form it would take, and the recommendations would be to allow them as a form of lower-cost market-rate housing with incentives in place to try and reach certain income brackets.

Commissioner Shand asked if the four types of affordable housing included affordable for purchase or affordable for rent. Consultant Ness stated it could be both, and added that the community-oriented housing fell more into the rental market, but there could be an option to include condominiums.

Commissioner Suesser felt there were a lot of examples of middle housing in Park City that are condominiums. Consultant Ness commented that there was not a lot of missing middle housing in Park City, and they were trying to provide options potentially for both rent and for sale that would add to the housing market. Consultant Kimmell added that condominiums were in the form of ownership, and "missing middle" was describing the physical form and character of the housing. He stated it could take the form of rental units, condominiums, or townhomes. He stressed their primary focus at this point was the concept that there was that scale of housing that was not permitted in many places in the City.

Consultant Ness presented a graphic that highlighted the areas where missing middle housing types were either prohibited or conditionally allowed. She explained that duplexes were conditionally allowed in the Single-Family zone except within a Master Planned Development ("MPD"). She noted that the LMC grouped fourplexes with multi-unit dwellings and were prohibited or conditionally allowed in the Single-Family zone. She next presented some of the recommendations for higher-density housing. Beyond use regulations, other changes would be required to encourage missing middle housing in these zones. She added that some of these changes would also benefit higher-density zones that permit multi-family housing.

Consultant Ness explained there was a need to calibrate density and floor area ratio standards to ensure they were providing enough opportunities to develop on different-sized lots by controlling size and scale to encourage smaller units. She noted these changes could also benefit other housing types as well. Another way to regulate density aside from a maximum density standard is through minimum lot size. She noted that sometimes minimum lot size could have unintended consequences such as encouraging larger, more expensive units. There was an opportunity to tighten up the minimum lot size standards that would encourage smaller, more affordable units and open up opportunities for missing middle housing types.

Consultant Kimmell next addressed the process under which many housing developments were approved in Park City. He stated that their primary recommendation was to look for ways to limit the scope of discretionary review processes to provide more certainty to developers that a project would get approved, and get approved on a timeline that would be workable with both the construction and financing of a project. He stated that the main challenge was that the larger developments were required to go through some form of discretionary review. He explained that discretionary review was any process where the Planning Commission or City Council could utilize some fairly subjective criteria in approving a project. He added that sometimes the criteria were a mix of objective and subjective criteria.

Consultant Kimmell offered that this process could be a deterrent to housing development, and limiting the scope and complexity of these review processes would be a tool to ensure they were getting more housing and more of the right types of housing. He stated there were lots of ways they could look at doing this, and it would not necessarily mean that Staff would be the body to approve all projects at an administrative level. He added that there were ways to reduce the barriers associated with the discretionary process while retaining the opportunity for the Planning Commission and City Council to weigh in on those projects.

Consultant Kimmell stated they could increase the threshold required for discretionary review. For example, the current Code requires that any project over 10 units was required to go through the MPD process. He queried whether that threshold could be raised for smaller projects or all projects that met certain criteria. This also spoke to the idea of exempting certain types of projects from discretionary review. He mentioned projects with a certain number of affordable units or projects in certain locations, such as those within a certain proximity to transit.

Another option was to try and limit some of the criteria applied to the discretionary process so that they would be more focused on the design of the building and less on the overall density or floor area. He stressed that if a developer could have some certainty over the number of units or the size of the building, that would be less of a barrier than if they had to go into a discretionary process not knowing if the site would support a certain number of units.

With regard to some of the design standards or development standards that might present a barrier to affordable housing, Consultant Kimmell reported that the current minimum open space requirements had a pretty significant impact on the amount of housing that could be built on a given site. Consultant Kimmell stated the recommendation was to consider reducing some of the open space requirements for housing that would be close to transit. Concurrent with reducing the open space requirement, an option could be to establish some requirements as to how the open space could be used. For example, there could be less open space, but a requirement for some type of recreational amenity within the open space. He stated that the reduction in open space requirements was another tool to incentivize affordable housing.

With regard to maximum height, Consultant Kimmell stated that for some zones, the team recommended some minor increases in height to support three-story buildings. Some of the zones have maximum heights of 27 or 28 feet which only allows for 2 – 2.5 stories. If those heights were allowed to be up to three stories, then they could potentially achieve a density that would be more supportive of the City's goals of having more housing close to transit.

Consultant Kimmell noted in those areas where the City wants to encourage more housing, allowing heights that would allow for three stories would help the City achieve its goals. He noted that the Report covered their research on maximum height standards in other peer communities. He presented a table that summarized the research and he explained that the main takeaway was that in comparison with other cities, Park City was on the low end of disallowing buildings over 35 feet in the higher-density residential or commercial mixed-use zones. He added that in most cases, most of these communities allowed for some 4 to 5-story buildings. He noted that these other communities were finding ways to allow for some taller buildings based on the benefits for housing, while also trying to maintain their character as a mountain community.

In terms of affordability incentives and height, the AMPD standards constituted the primary incentives currently in place. He noted that the maximum height standard was one of the more important changes that could be made to further incentivize affordable units. Currently, the AMPD allows for buildings up to 45 feet. He presented a graphic that illustrated the number of units achievable on a typical half-acre lot.

Consultant Kimmell explained the benefits of allowing buildings up to five stories and specifically stated it would result in ten additional units and a pretty significant increase in density. The increase in density could help offset the cost of providing affordable units, which in turn would make more projects economically feasible. He noted that other approaches could be used to calibrate the bonus incentives in the AMPD Code to make them scalable and more attractive for private developers. One was offering an option for incentives for the smaller missing middle projects. Under the AMPD, a minimum of 50% of the units must be affordable; therefore, in a smaller project, this percentage made it more difficult for a project to pencil. He suggested considering scaling the incentives so it would be more achievable for those smaller projects. He presented an example from Frisco, Colorado, and explained that Frisco recently amended its affordable housing incentives by lowering the percentage of units that must be affordable in a project. There, the requirement is 50% of the bonus units in the project as opposed to 50% of all units.

Another tool was to address the minimum income levels served by the affordable units. In Frisco, they tried to target more of the middle-income brackets, so the AMI was 100% rather than 60% or 80 percent. This enabled more projects to pencil because the cost of providing those affordable units was lower. He mentioned the tradeoff in that they were not serving the lower income brackets; however, it likely would create more units in the long term.

Consultant Kimmell next provided an example from Jackson, Wyoming. He reported that Jackson allowed for the option for bonus incentives to build units specifically reserved for local employees, but not specific to a certain income level. This also provided some flexibility for developers who could build for a higher income bracket but the housing would be reserved for local employees. The affordable housing standards in Jackson were also structured so that the program scales up so that for every bonus (affordable) unit provided, the developer is allowed to add two market-rate units. He explained that this method did not create a threshold that must be met to obtain incentives; rather, it scales up to allow for more developer flexibility.

Consultant Medina next addressed transportation strategies. She began by explaining the key terms and concepts included in the Initial Report. She stated that “multi-modal transportation” referred to having a transportation system with a variety of different options to get from place to place. She mentioned walking, biking, transit, and driving. Transportation Demand Management (“TDM”) refers to a set of strategies or programs designed to reduce the demand for transportation, specifically single-occupancy vehicle trips. She explained that these strategies aim to provide more competitive options than driving alone, such as a transit system that allows a commute to work at the same time or less than driving.

Consultant Medina added that TDM strategies also aim to reduce overall trips and improve traffic congestion without having to build more roads. The first recommendation was to enhance access and connectivity standards, and explained that when there are robust standards in the Code it creates walkable communities and opens the door for different transportation choices. The goal of the amendments would be to guide developers in designing pedestrian-oriented developments. She provided examples of what this guidance looks like in other communities. In Palo Alto, California there is a pedestrian overlay area, and within the overlay, there are specific access and connectivity standards that developers must adhere to. These standards could be general or descriptive, and she provided the example of requiring ground floors to utilize appealing materials and have well-designed pedestrian walkways with good visibility and access.

Another example from Palo Alto’s Code was that bicycle amenities must contribute to the overall environment and safety. She mentioned lighting, showers and changing areas, dedicated bike lanes and paths, and covered waiting areas or awnings on pedestrian-primary routes.

Consultant Medina presented the example of Fort Collins, Colorado, which tackled these issues more generally. Fort Collins has an access and connectivity section in its Code that applies to all development. She provided the example that development plans shall include site amenities that enhance safety and convenience, promote walking or ease, and use of assisted mobility devices or bicycling. She observed that the language was a bit more inclusive.

Consultant Medina stated that the next recommendation was to update the parking requirements, otherwise known as right-sized ratios. She explained that excess parking can lead to an increase in land and development costs, make housing more expensive, and discourage walking and biking, which would undermine the goals set forth in Park City's established plans. She presented a graphic from Park City Forward that highlighted that parking was the lowest prioritization of all of the different modes. The suggestion was that they would revise the parking requirements to incentivize sustainable transportation choices move the needle even further and allow for additional parking reductions within established overlays or certain districts.

She referenced Table 14 in the Initial Report which included draft recommendations for the reduced parking ratios. She highlighted duplexes and triplexes going from two parking spaces per dwelling unit to 1.5 parking spaces. This would be more consistent with peer communities' parking ratios and would also align with some of the parking barriers raised in the housing section.

Additionally, Consultant Medina stated that Bozeman, Montana adopted additional parking reductions in certain designated areas of the city. She presented the example of two Neighborhood Commercial districts and Community Commercial districts. She noted that for a restaurant, for example, the overall parking reduction could be further reduced. She stressed that the Bozeman Code was context-specific where they look at what is already going on in those districts.

Consultant Medina proposed additional parking strategies that would support an overall reduction in parking. She added that the team proposed to implement additional ways to comply with parking requirements to better manage the parking demand. The goal was to give developers incentives to reduce the overall quantity of off-street parking, while still promoting the multi-modal transportation goals. Consultant Medina presented a suite of alternative parking strategies, noting that not all were used in peer communities. She commented that they were looking for feedback from the Planning Commission on whether they wanted to prioritize some, or felt that some might not be feasible. The strategies are outlined in the Initial Report with some sample applications in peer communities.

With regard to offsite parking, she explained that if a developer elected to build offsite parking, they would not be required to provide all of the parking onsite as it could be moved to the offsite location. For shared parking, developers would only have to build 25% of their required parking if they have a shared parking agreement with other businesses.

Consultant Medina also mentioned the proposal to adopt TDM strategies in the Code. They want to reduce the vehicle miles traveled, related congestion, and the environmental impacts of single-occupancy vehicles during peak days and peak hours. She explained that Park City's TDM plan sets forth these goals, so the recommendation was to codify them into the Code. The overall goal was to provide developers with a menu of TDM requirements for new developments or redevelopments of a certain size.

She presented a sample menu of strategies, which were arranged by single-vehicle occupancy trip reduction. Therefore, if reducing single-occupancy vehicle trips was a priority, then some of these could be used depending on the size of the development or the location of the development.

Consultant Medina presented sample applications of how other peer communities implemented TDMs. She mentioned Placer County, California, which requires employers to create a Transportation Plan that includes transportation control measures ("TCMs"). Placer County assigns the TCMs a credit for trip reductions, and the submitted plans must have total trip reductions of 30 points. Based on Park City's priorities and goals, they could weight some of these strategies heavier to achieve the 30-point standard.

She next presented the example of Aspen, Colorado where they weaved this into their Traffic Impact Analysis ("TIA") process. For any new projects, developers are provided with an Excel workbook to input TDM strategies and project-specific characteristics to demonstrate the single-occupancy vehicle trips and how the TDM strategies would reduce those impacts.

For minor projects, developers in Aspen must choose two appropriate TDM measures, and for larger developments, developers must submit five TDM measures. She explained that these examples illustrated alternative ways to weave TDMs into projects. She noted they could also include this in the Code and have mandatory TDM requirements and supplemental TDM strategies.

Consultant Murillo stated that after the consultants receive the Commission's feedback during this Work Session, as well as feedback from the online survey they would draft amendments to the Code. She reiterated that the plan was to have these draft amendments available for review by the end of the year, and then be discussed at a community open house in January. Following those events, they plan on returning to the Planning Commission for a Work Session in February before any adoption hearings.

To help facilitate the discussions for this meeting, Consultant Murillo posed some questions for the Commission. With respect to affordable housing, she listed the questions as follows:

1. What criteria should be established or enhanced to streamline the review of housing developments?

They requested that the Commission identify those crucial issues or topics that end up delaying housing developments and whether there was a way to address those issues through standards. She noted the current Code included some standards that could address some of the topics, such as building step-backs, building articulation, and façade variation.

2. Could criteria allow a shift away from discretionary to administrative project reviews?

By establishing clear criteria and standards that provide certainty to the developer and the Planning Commission, Staff, and the community, she inquired whether that would allow a level of comfort with moving a certain level or type of project into Staff level approval instead of Commission approval.

3. Should duplexes, triplexes, and/or fourplexes be allowed in Single-Family zones when close to transit?

Consultant Murillo stated that the question addressed the missing middle type of housing and allowed this type of affordable housing in lower-density zones, particularly when they would be accessible to transit. She noted that this will not supersede Homeowners' Associations ("HOAs") and Covenants, Covenants and Restrictions ("CC&Rs").

4. Should multi-unit projects be allowed an additional story in the HR-1, HR-M, and RDM zones to accommodate missing middle and higher-density housing?

She noted that in the Historic Districts, this question was focused more on the missing middle type of housing; whereas, in RDM, they were looking at opportunities with some higher density housing by allowing an additional story.

5. Should non-discretionary tiers of incentives for affordable housing reflect the amount and affordability of housing provided?

Consultant Murillo stated in the context of what currently exists in Park City, 20% of the units must be affordable, and if a developer wanted to access incentives under the AMPD then 50% of the units must be affordable. In looking at ways they could fill in those bookends, and look at opportunities that go beyond the current standard of 80% AMI to encourage different opportunities for affordable and attainable housing.

In terms of transportation, Consultant Murillo identified the questions as follows:

6. Should transportation demand measures, or TDM, be required for all development, or development in certain areas?
7. What type of approach should be taken to implement TDM in the Code?

She recalled the suggestion of a TDM menu that would set forth mandatory measures that the City would want to see in all projects, and then a list of supplemental measures from which the applicant must select a certain number while retaining the flexibility to select the measures.

8. Should right-sized parking ratios be applied citywide, and should additional parking reductions be allowed in certain areas?
9. Which alternative parking strategies should be available to reduce required parking?

Consultant Murillo thanked the Commission for their attention and invited comment and discussion.

Chair Hall referenced the map on page 14 and observed that it did not seem as though the HR-M zone was highlighted. Consultant Murillo acknowledged it was difficult to see the HR-M zone on that map, and they would work on that to make sure it was clear.

With regard to the consultants' transit analysis, Commissioner Shand asked what the major drivers of traffic were in Park City. Consultant Murillo stated that they did not conduct traffic or transportation studies or analysis; rather, they worked off the existing analysis of policy work previously completed for the City. The consultants then analyzed the existing Code and standards within the Code that do not align with the City's objectives.

Commissioner Shand noted the discussion about parking and asked whether more parking or less parking made the traffic situation worse. Consultant Murillo responded that in terms of the industry, there is a high cost of free parking in that it is easy to use and there was no dis-incentive to not using cars.

Consultant Medina echoed these comments and stated that as more parking is built, more cars will come and park. Park City was a little different in that it is a destination with a lot of people visiting, so the City has to accommodate those visitors. The established plans for offsite parking were efforts at trying to find a solution without building more parking in the high-demand areas. She identified that as one of the alternative parking strategies they would recommend.

Chair Hall referenced page 20 and the table that showed the allowed, conditional, or prohibited housing types, and those that would require an MPD. She specifically referenced the designation of "limited" in the Single-Family zone for duplexes. She asked for clarification of that designation.

Assistant Director Ward's explanation was inaudible. [1:07:51]

Following a short recess, the meeting resumed with a focus on the questions submitted by the consultants.

Commissioner Johnson referenced the second paragraph of Section 1.2 of the Initial Report and asked the consultants to update the Median Sales Price from 2021 to a more current number. He felt that the number in the report was about \$1 million off from current numbers. He expressed concern about workforce housing and AMI as they look

at 100% to 140% AMI, and commented that 100% AMI was \$52 per hour for a one-person household, whereas a two-person household would be approximately \$30 per hour per person. Commissioner Johnson did not know if that would cover the needs of the community but looked forward to the discussion.

With regard to the first question, which was “what criteria should be established or enhanced to streamline the review of housing development?” Consultant Murillo asked if there were issues not addressed in the Code or if there were standards in the existing Code that could be improved upon to help streamline housing development projects.

Commissioner Van Dine stated that there were no pedestrian-friendly design requirements in the Code. She felt that outlining those standards would be extremely helpful, because they have a lot of discussion about how developers are incorporating transportation options and connecting into their existing system, such as the Rail Trail.

Commissioner Shand addressed building step backs when adding an additional story. He felt the Commission was very mindful of the entry corridor coming into town and the massing of buildings, and that the step-backs helped considerably.

Commissioner Suesser agreed with both Commissioner Van Dine and Commissioner Shand’s comments. She recalled that they already had façade variation in the Code as a requirement as well as building articulation. She asked for clarification regarding the open space recommendations and wondered if it meant reducing open space or focusing on quality versus quantity.

Consultant Murillo responded that the focus was on quality versus quantity, and whether there were concerns with open space as proposed or whether it was something that could be negotiated if there were specifics as to how the space should be designed.

Commissioner Suesser felt the Code needed attention with respect to how it defined open space and whether it was on a structure or not. She offered that there was some ambiguity in the Code in terms of what can be counted as open space that should be cleared up. She noted that the Commission has had arguments over what counts as open space in a recent development project; so refining the definition would be helpful.

Consultant Murillo asked if the concern was that the common area on a rooftop deck should not be counted as open space. Commissioner Suesser stated there was some ambiguity with respect to what should and should not be counted toward open space. She mentioned a helicopter pad and whether it would be included or excluded from the open space requirement. Commissioner Suesser reiterated that the Code needs to be clarified in this regard.

Commissioner Frontero asked if this question was one commonly posed to resort towns or whether it was specifically related to feedback as it related to Park City. Consultant Murillo stated it was a specific question to accelerate, encourage, and incentivize housing anywhere, not just specific to Park City. She added that they received

feedback from the outreach that streamlining or establishing clearer standards would help developers in the entitlement process. Commissioner Frontero commented that it seemed natural that they would want to streamline the review process; however, he was unsure how they would take the next step.

Consultant Murillo explained that the question was not whether they should do it. Rather, the question was aimed at specific areas that standards could address better and would result in reducing the time it takes to review a project. She noted the comments regarding the ambiguity in defining open space and stated they could clarify it so that it would not become an issue at a hearing for a housing development. She added that there were some pedestrian-friendly design details for which they could provide standards that would meet the expectations of the Commission and the community, and that would provide certainty to the developers so they know what would be required.

Commissioner Frontero did not have any specific comments in response to the first question and felt that the step-backs were the likely path for them to become more comfortable with height and density. Combined with building articulation and façade variation would help him become more comfortable with height and density and would like more specificity on these three items.

Chair Hall agreed with Commissioner Shand's comments regarding specifying step backs. She felt that façade variation and building articulation would come in as part of a variance or exception requested by a developer. She wondered if the consultants were asking whether it should be looked at on a sliding scale. She agreed with Commissioner Van Dine's comments regarding pedestrian-friendly design and stated that it was substantively lacking in the Code. She liked the example from Palo Alto where the street level was accessible to pedestrians and factored in both bike ability and walkability for larger MPDs especially.

In terms of open space, Chair Hall would be in favor of supporting higher quality open space over a 60% minimum requirement. She felt it could be accomplished by more specifically defining open space.

Commissioner Sigg felt this discussion was quite broad and covered many different zoning districts. He felt that a lot of these criteria would require that they be established in the General Plan and within the various zoning districts. What he has heard has been somewhat subjective, but questioned where it was stated that if a developer meets the criteria in this zone, this is what you get. He stated that they live in a check-the-box state, and felt it was important to establish criteria as part of the land use authority and the General Plan for certain areas. He would like to see those specifics in a grid. Step backs and building articulation were largely location specific. He mentioned community commercial zones or more intensive-use zones where a 45-foot building built at the minimum Setback requirement on a major street junction would be like something seen in a more semi-urban area. To the extent to which zone allows certain Setbacks and step backs, he felt it needed to be specifically articulated in the Code.

Commissioner Sigg liked the direction this was going; however, felt the criteria needed to be well defined as part of the General Plan and the Code.

Commissioner Johnson agreed with the prior comments and added that they already have some of this built-in, but having the walkability and bike-ability built in was important. In terms of open space, he would like to know more about subterranean structures and how that could work with open space. He noted that with the AMPD, the Commission did not push back too hard on the developers for certain things, and more clarification on offsite parking would be helpful to streamline the process for everyone involved.

Commissioner Suesser noted that pursuant to the Code, affordable housing was defined as housing that is priced at 80% of AMI. She felt that this discussion went beyond affordable housing. She added that the consultants were defining affordable housing very broadly, whereas in Park City they consider affordable housing at housing provided at 80% AMI. Consultant Murillo agreed and stated that for this question they were not just talking about 80% AMI projects.

Consultant Murillo next presented question two, which she reminded was “could clear criteria allow for a shift away from discretionary to administrative project reviews?” If they established a solid set of objective standards that would apply to projects, she asked if that would provide a level of certainty and comfort where some projects would no longer need to go through Planning Commission review and rather go through Staff review. She posited that there might be a threshold or a location-specific for that type of Staff review.

Commissioner Johnson believed that they would still have discretionary review for all new projects, but they could streamline the process by codifying criteria to make it much more of a box-checking exercise. Based on the buildable area within 84060, he felt that discretionary review was a process that must remain.

Commissioner Sigg concurred with Commissioner Johnson’s statement that discretionary review was a process that should remain as part of Commission review. He commented that it could be defined to zone-specific areas, and reiterated that having clarity in the criteria was important because currently, the criteria were vague. He stated they could clarify these items so there would not be as much guesswork.

Chair Hall also agreed and stated that the Planning Commission currently micromanages very small Plat Amendments, so she could not image a large-scale multi-unit affordable MPD not having discretionary review. She agreed that the criteria within the AMPD should be more clearly defined so an applicant could have a clearer plan and expectation of what the overall Conditions of Approval would be within the MPD.

Commissioner Frontero agreed and did not envision discretionary review by the Commission going away as there were too many factors to consider. However, the more specific they can be per zone was the direction to go. He would like to see more criteria, and more specifics for each of the zones would be better and would help to streamline the process; however, it would not completely remove the discretionary review.

Commissioner Suesser agreed and added that none of the peer communities had removed a discretionary review for large housing projects. Therefore, Park City was in line with what other communities were doing in this area. She stressed there were very specific community goals in Park City, and discretion was necessary to achieve those community goals. She also emphasized that they want to incentivize affordable AMPD developments, and they would like to see those developments streamlined more than larger non-AMPD housing developments. She felt there was room to create clearer criteria in the AMPD to help streamline that process and give developers more predictability.

Commissioner Van Dine also agreed, and stated the one area they could significantly streamline was the missing middle housing for duplex and triplex units. She stressed she would like to see streamlined processes for all developments, but there could be significant streamlining for the smaller projects.

Commissioner Shand agreed with the prior comments.

With regard to the third question, “should duplexes, triplexes, and fourplexes be allowed in Single-Family zones when close to transit?” Consultant Murillo stated this would target the missing middle housing types.

Commissioner Suesser responded that these housing types should be allowed in Single-Family zones, but clarified that meant the Single-Family (“SF”) zone only. She would not support these housing types in the Historic zones or anywhere else.

Commissioner Frontero observed there were currently duplexes in the HR-1 zone. Commissioner Suesser clarified that they were allowed with a Conditional Use Permit (“CUP”), and commented that the question mentioned only Single-Family zones. Commissioner Frontero stated he was open to duplexes, triplexes, and fourplexes in many of the zones, but would need to see more specifics for each zone to respond yes or no to this question.

Chair Hall asked Consultant Murillo to pull up the chart from page 20 of the Initial Report. She also felt it would be helpful to see the map showing the location of the Single-Family zone, shown on page 14 of the Initial Report. Consultant Murillo confirmed that the question to the Commission was whether there was a consensus to allow all types of dwellings in the Single-Family zone. She reiterated that the zoning Code amendments would not supersede HOAs and CC&Rs, which exist in many of the Single-Family Subdivisions.

Chair Hall questioned how impactful a change would be to the Single-Family zone because she assumed that 90% of the Single-Family zone shown on the map was part of an HOA that would ban more than a Single-Family Dwelling. Commissioner Van Dine agreed and added that most homes were in either an HOA or were developed as such, and referenced the Racquet Club condominiums.

Senior City Attorney, Mark Harrington, stated they dealt with this exact issue during the last General Plan as part of the discussions regarding Accessory Units. He stated they could approach it as suggested by Commissioner Suesser in terms of having a policy preference articulated and then ferret out how much conflict there actually is or is not through the public hearing process. They could also anticipate that Thanes and Park Meadows would resist, as they heard from those neighborhoods that the City was setting up additional conflict and unfairly putting the burden of enforcement upon those neighborhoods. Based on this argument, these neighborhoods were able to convince the City Council to keep some of the enabling language out of the General Plan. He suggested that they would likely face a similar argument here, but given the City's goals and the State's goals, it was up to the Planning Commission to explore additional density. City Attorney Harrington also mentioned that nationally, they were seeing the call to re-examine Single-Family exclusive zoning as a barrier to more equitable housing.

In terms of responding to this question, Chair Hall was interested in moving it to Planning Commission review for duplexes in the Single-Family zone, and not jumping into large-scale multi-unit dwellings. She would like it to come through the Planning Commission so they could mitigate any of the detrimental impacts with reasonable mitigation.

Commissioner Sigg commented that many of the zones were predominantly built out and had their own set of rules and regulations. He asked if this would open a Pandora's box of re-development and opportunity in some of these zones. He felt that there would have to be some stringent strings attached and mentioned the duration of the rental. He stated that they were talking about the \$800,000 to \$900,000 condominiums owned by someone who would want to rent them out. This was the cause of the problem of no middle-class housing in town. In addition, he suggested a thorough analysis of the HOAs that would take precedence in these zones. If they were to allow this in some of the lower density zones, he did not want it to be a panacea for re-development and opportunity for Nightly Rentals.

Commissioner Suesser suggested they could build in a restriction that this allowance would not create Nightly Rentals by allowing this type of housing in Single-Family zones.

Commissioner Johnson responded "no" to this question. Commissioner Shand concurred and stated that much of the Single-Family and HR-1 zones were already built

out, and there was plenty of opportunity for duplexes, triplexes, and multi-family in other areas and zones.

Consultant Murillo next moved to question four which asked about allowing the additional story in the HR-1, HR-M, and RDM zones. She referenced the presentation, which analyzed increasing the 27 to 28-foot height limit to 35 feet to help accommodate missing middle housing in the HR-1 and HR-M zones, and higher density in the RDM zones.

Chair Hall asked if this question was related to the AMPD that currently allows an exemption, or whether it was solely related to MPDs. Consultant Murillo explained they would like to know if the Commission's response would be based on whether or not it was an AMPD. For example, if there is support for an additional story in these zones as captured in the AMPD, then that is what the consultants want to know.

Assistant Director Ward clarified that AMPDs were currently only allowed in the zones that allow multi-unit dwellings, which would exclude the HR-1 zone. She referenced the Initial Report inquiry that if duplexes and triplexes were allowed in those zones, could those also have a higher height.

Commissioner Suesser stated that she would support allowing an additional story for multi-unit projects in the RDM zones as long as it is part of an AMPD. She would not support an additional story in the Historic Districts.

There was consensus on Commissioner Suesser's position in regard to this question.

The next question was "Should non-discretionary tiers of incentives for affordable housing reflect the amount and affordability of housing provided?" Consultant Murillo explained that this question looked at establishing calibrated tiers where different incentives could be allowed. She stated that currently, the Code provides incentives under the AMPD for a developer that builds 50% of housing at 80% AMI. She asked if the Commission wanted to look at variations, such as allowing less than 50% of the total number of units or looking at different income levels above 80% AMI.

Commissioner Van Dine expressed interest in looking at this and added they had been talking about adding the 100% or 120% AMI. At least seeing what this might look like and what the levers might be would be very helpful.

Chair Hall also expressed interest in learning more about a sliding scale for AMPDs of less than 50 percent. She felt it might get a little complicated with the building height and was not sure that would be something she would want to spend time on. She concurred with Commissioner Van Dine's suggestion of exploring different AMI percentages to make projects pencil for private applicants.

Commissioner Sigg agreed, but noted that a lot rested on the word "incentives." At the end of the day, that would be a go or no-go decision for the builders, especially if they

started mandating larger percentages in the lower-income tiers. He stressed that the incentives would have to be clearly defined.

Commissioner Suesser commented that the percentage of market-rate housing was not mentioned, and she would like to see them address the middle/higher tier income brackets of 100% to 140% AMI and reduce market-rate housing and Nightly Rental units in these projects.

Commissioner Frontero suggested rewarding developers for providing more than the 50% AMPD requirement and allowing the ability to offer more flexibility if an application comes in at a higher percentage.

Consultant Kimmell felt this feedback was helpful, and they could start to think through the type of structure that would make the most sense and balance the Commission's desire to hit certain income levels while making more projects work. They then moved onto the questions regarding transportation, and Consultant Murillo reminded the Commission that question six was "should Transportation Demand Measures ("TDM") be required for all development, or development within certain areas?"

There was a consensus that TDM should be required for all development. Commissioner Shand noted that was part of the problem and Commissioner Sigg added that the question would then become how they could tier them. He noted that certain aspects of transportation were less available, and to put an undue burden on creating a TDM based on a blanket requirement might not work. Commissioner Sigg stressed that it should be looked at in the context of the type of transportation available in the area.

Commissioner Shand suggested that all developments should provide a TDM, which might take the form of a four-acre offsite parking lot or other means. The Commission then turned to question seven and Commissioner Shand echoed the statements of Commissioner Sigg that there might not be a single solution for all developments, although a plan should be required.

Commissioner Suesser stated she was in favor of all of the TDM strategies suggested in the Initial Report, and in particular liked the employer-sponsored vanpools. Chair Hall agreed.

Commissioner Frontero also agreed with Commissioner Suesser and Commissioner Shand. He offered they were at the point where TDMs should be required because traffic is so impactful on the community. He had no suggestions as to the approach to be taken but wanted developers to be as specific as possible. He added that he would want to discourage applicants from coming in with the same basic plan, and would like to see the plans be very specific to each application.

With regard to question eight, Consultant Murillo reminded that it asked whether the Commission wanted to update parking ratios to be right-sized to reflect demand and allow additional parking reductions in certain areas based on proximity to transit.

Commissioner Shand responded “yes,” and offered that additional parking reductions should be looked at and considered for certain applications. He added that they had historically been overly generous with parking requirements or spaces needed for certain businesses and commercial uses. He reiterated his prior inquiry of what creates more traffic—more parking or less parking. He commented that parking reductions were warranted and should be considered. Commissioner Van Dine agreed.

Commissioner Suesser agreed that right-sized parking regulations should be applied citywide. However, in terms of additional parking reductions in certain areas, she did not think it would be appropriate if they were talking about reductions just because they were in a certain area. She felt parking reductions could be appropriate if a project had offsite parking, or if they provided vanpools or bus service. Tying parking reductions to certain areas did not make sense to her.

Commissioner Frontero agreed with Commissioner Suesser, and felt the answer to the first part of the question was “yes.” Additional parking reductions could be allowed if there was a traffic mitigation plan in place.

Chair Hall referenced the chart at the end of the Packet and felt they could include many of those changes in the LMC. It could be even further reduced with alternative parking solutions. She noted that Austin has no parking requirements.

Commissioner Sigg agreed it was something to consider and wondered what a 0.5 parking obligation meant for a two-bedroom unit. He understood the parking requirement spanned the entire project, but felt there might be a better way to calculate the requirement and round the numbers. He also mentioned taking surplus parking as an overall percentage of the overall parking. He stated that the parking requirements needed to be tied to the use in the development, and also to some of the traffic mitigation principles they had discussed.

Commissioner Johnson felt they could find ways to reduce parking, but they should try and get creative with the TDM and the menu of items that must be addressed prior to considering parking reductions. He then addressed question nine and stated he did not know what the alternatives were and requested input from the consultants. He stated that offsite parking was a great way to address parking in town. He was open to right-sized parking throughout the city, but they would need to have transportation solutions set out in the TDM menu as well as alternative parking strategies. Offsite parking seemed to him to be the most solid choice.

Commissioner Suesser agreed with Commissioner Johnson and felt it would be key to address who would be responsible for offsite parking and alternative parking strategies. She felt this was a big part of the hurdle they hit in the City. If they have a public lot, a development should not be able to just say they will park all of their employees in the public lot. She stated the consultants would have to help them navigate those parking strategies to get the Commission to the point of allowing more parking reductions.

Chair Hall commented that some of the issues discussed during prior applications included having additional bike stalls and biking amenities. She offered that Staff could likely supply the consultants with a more comprehensive list. Recently, they have also been discussing shared parking and differentiation between day use versus night use for parking.

Commissioner Suesser mentioned that her focus was more on the resorts than a housing development or mixed-use development.

Commissioner Frontero mentioned the Initial Report that referenced “unbundled parking,” and found that to be an interesting concept. He requested more information to see how that would look.

Chair Hall commented that the Commission expressed consensus to most of the questions posed by the consultants, and asked if the consultants had any further questions of the Commission.

Consultant Medina referenced question eight and sought confirmation that the Commission would not want to follow the Bozeman model wherein reduced parking was allowed in certain districts, with the exception of proximity to transit. Chair Hall confirmed and added that in prior applications, certain applicants provided more bike parking and bike amenities that were components supporting a parking reduction.

Consultant Murillo thanked the Commissioners for their time and input.

Following a short recess, Chair Hall called the meeting back to order.

- B. Utah Property Rights Ombudsman** – The Utah Property Rights Ombudsman Will Provide an Overview of their Office for the Planning Commission. The Office of the Property Rights Ombudsman is to safeguard Utah Property Rights through Education and Dispute Resolution.

Jordan Cullimore identified himself as the Lead Attorney and Director for the Office of Property Rights Ombudsman. He recognized that each community was dealing with its own issues, and this discussion would depend heavily on engagement and discussion specific to Park City. The Office of Property Rights Ombudsman is a State-funded neutral State agency charged with being neutral and independent. They do not represent the State, local governments, or property owners. First and foremost, they provide dispute resolution services in areas related to Constitutional takings. Mediation services are the primary dispute resolution service they provide. In situations involving eminent domain, he stated that the property owner can request mediation through his office and they can provide services as the neutral third party to try and help the parties come to an agreement, if they want, about fair market value. As part of that process, they can get an additional appraisal for the property owner.

Director Cullimore added that whenever an entity seeks to acquire property under the threat of eminent domain, they provide the property owner with a brochure explaining their rights. Advisory opinions are the other primary dispute resolution tool provided by his office. This tool typically deals with the land use approval process. He stated that either the local government or the property owner might request an advisory opinion.

Director Cullimore stated that if there is a legal dispute over how a Code should be applied, or whether or not an exaction was appropriate, then one or the other party could request an informal review and opinion on how a court might decide that dispute. He stated that many times during the mini-discovery process the parties elect to mediate the dispute. He stated the focus was on providing a process that is hopefully more nimble than going to court, and that enables the parties to come to a resolution without litigation. He commented that the third tool they use is training. His office has two other attorneys, Marcie Jones, and Richard Plehn, and they all try to make themselves available to answer questions. He noted it was not uncommon for them to receive a call from both sides on the same day, and they try to make sure they remain neutral and independent in providing helpful information.

In response to an inquiry from Commissioner Suesser, Director Cullimore explained that they communicate with both sides regarding an advisory opinion. In other words, they never prepare blind advisory opinions or anonymous advisory opinions. He stressed that they offer an alternative dispute resolution process, so the intent is to bring the parties together to share information and try to achieve a resolution.

Commissioner Suesser noted the example of an Ombudsman opinion being issued in Park City on the Washington School Inn matter, and she was curious whether his office spoke with people in the City. She found the opinion off-point on what was being discussed.

Director Cullimore stated they have received feedback in the past that advisory opinions did not address the entire picture. He explained that they typically try and bring in the parties as well as interested third parties, but acknowledged that through the process of information exchange, they inevitably might not hear everyone's perspective. If that occurs and they miss something from a factual standpoint, he explained that the parties could request reconsideration and the reasons therefore. He stressed that the intent is not to lay down the hammer and then walk away; rather, the intent is to help resolve a dispute.

Director Cullimore stated that his office had issued around 300 advisory opinions and most of the time they help resolve disputes. He recognized that sometimes they miss things and reiterated that the door is not closed once they issue an opinion. Director Cullimore presented a graphic that illustrated common issues in land use that come into their office. He recognized that Park City deals with issues unique from other communities. He stated that during a recent discussion, City Attorney Harrington relayed that there was a recent Utah Appellate Court case related to Plat Amendments.

He recommended first reviewing legislative versus administrative decision-making. As lawyers, they believe the best decision is a legal decision, and the first step in making a lawful decision is recognizing which hat the decision-maker wears. He explained that the Planning Commission acts as an advisory body for the City Council with regard to legislative decision-making. At other times, the Planning Commission acts as the decision-maker and land use authority.

City Attorney Harrington mentioned that the Code was recently amended to minimize land use decision-making by the City Council; however, the City Council remained the land use authority in terms of ordinances. Director Cullimore stressed that it was important to recognize that depending on which hat the Commission wears, the decision-making criteria would be significantly different. He explained that legislative decisions entailed the enactment of laws and policy-making by the elected officials. Examples of legislative decisions include the General Plan, Zoning Ordinances, the Zone Map, Annexation decisions, and in certain cases Development Agreements.

As long as legislative decisions comply with State and Federal law, and there is some reasonably debatable reason for the decision, the courts will not disturb that decision. He added that if a court could determine that a decision promoted the public interest and a reasonable mind could draw the conclusion supporting the reasons for the decision, it would be proper.

Legislative decisions involve consideration of the criteria used, witnesses heard, and evidence gathered. The Planning Commission, as the advisory body, can then make a recommendation it feels would serve the public interest. He noted that discretion was broad, and the courts grant great deference to the decision.

Director Cullimore explained that administrative decisions involved subdivisions, conditional uses, site plans, permits, and administrative Development Agreements. With these types of decisions, the pendulum swings in favor of property rights. He explained that once the zoning is set, the Planning Commission has the opportunity to decide what they want the community to look like and their role is to essentially check the boxes and make sure the application complies with the law.

As it relates to factual or discretionary decision-making, Director Cullimore stated the decisions must be supported by evidence. This would involve first-hand knowledge or verifiable facts or expert opinion. He observed that the Plat Amendments were unique. He mentioned *Baker v. Park City* and its' progeny and stated that as a land use practitioner, Plat Amendments were baffling because they do not fit neatly in either the legislative or administrative box. He explained that in Park City, the Planning Commission is the administrative body that makes decisions on Plat Amendments; however, because of language in the State Code regarding "good cause," the courts have interpreted that as allowing significant discretion that he viewed as almost legislative.

From the standpoint of the Property Rights Ombudsman, the Planning Commission had a very important role to play in striking the right balance between pursuing the public interest and preserving and protecting property rights. He explained that the *Six Blue Bison* case and the *Baker* case both stated that the Planning Commission may approve a Plat Amendment for good cause. Therefore, the Commission could start looking at things it typically would not consider in an administrative decision-making process.

Director Cullimore explained that *Six Blue Bison* was involved in a situation in Alpine where a private development had a long private driveway that Blue Bison purchased to provide access to their development in Draper. In doing so, there was an application for a Plat Amendment that was denied by the city because the General Plan did not contemplate that road. He mentioned that not every road must be depicted in the General Plan, however, that should not have come into the decision-making process if it was deemed a true administrative process. Alpine's code required good cause supporting an approval, which has also been interpreted to support denial based on good cause; therefore, the city's decision was sufficient in the context of a Plat Amendment to support the denial. He commented that if this had been anything other than a Plat Amendment, he opined that this argument would likely not have succeeded.

Commissioner Suesser asked the speaker to elaborate on the application of the good cause standard and noted that the Planning Commission struggled with that in reviewing applications. She wondered whether it was a low bar or a high bar and what it really meant.

Director Cullimore stated that the State Code does not define good cause. He knows from the *Baker* case that Park City has defined good cause and recommended looking to that definition and providing the best evidence possible to support the decision in line with the definition. He added that the courts were very deferential with respect to good cause supporting a decision. There must be substantial evidence to support the good cause determination, but a lot of the evidence provided looks more legislative in nature, which is arguably speculative in that it is not supported by expert testimony or not specifically factual. In this situation, the decision-maker is typically looking at an issue and concluding it might be a concern, which then is given as the good cause determination to deny.

Commissioner Suesser posited that good cause was more of a policy analysis or a determination of whether there was a reasonable basis for the decision. Director Cullimore stated that if a matter goes to court, that was likely what would happen.

City Attorney Harrington stated that since *Baker*, they have stated the decision-making bodies of a two-pronged approach. One prong asks: "If the application came in at the time of the original subdivision, how would it have been evaluated?" He added that the Commission had a fair amount of flexibility in applying broader criteria at the time of Subdivision to achieve the General Plan goals. He added that the Commission had been very successful at looking at certain projects in this way to determine whether it was fair given the build-out pursuant to that original Subdivision. Consistency with the

underlying approval was one evidentiary prong, and the discretion needed to be tied into that prong. He stated that inconsistency with the underlying approval was one of their arguments in the *Baker* case in that it involved the only lot exempt from a prohibition in the CC&Rs from further subdivision because it was originally a well. When the well went away, it was a substandard Lot and the owners sought to subdivide it again.

They were able to argue to the court that under either the administrative or legislative standard, there was enough evidence to support the decision. City Attorney Harrington stated that the Planning Commission was very thorough and methodical in looking at the average lot size across the street and in an adjacent neighborhood. He recommended staying away from policy and a public benefits analysis as they codified conditional use criteria. While these could play a role in the decision, it usually cannot be the exclusive reason.

The second prong involved the current state of analysis, which is where neighborhood input is important in terms of affirmative negative impacts or precedent-setting. He referenced an application for a small bump-out in Park Meadows that was arguably *de minimus* but would have set a precedent for the entire subdivision.

City Attorney Harrington recommended the Commission look at applications through those two lenses and tie it to something evidentiary in the record, which would then give them the discretion to go either way more than they would in a pure CUP.

Director Cullimore urged the Planning Commission to be very responsible with the discretion afforded to it, along with the deference given by the courts. The reality is that since *Baker* and other cases, there have been discussions in the development community that the substantial evidence standard and the reasonably debatable standard were in some regard almost becoming indistinguishable. He observed that most practitioners have recognized that these standards were still very different, but the more stories that get to the Legislature about local governments doing things in a way that the Legislature might not view as appropriate, the more local discretion they take away.

Director Cullimore stated that he would not treat the process any differently than they treat any other administration's substantial evidence determination. He stressed that decisions must be supported by evidence and the Code, and if they proceed in that fashion they were in a much safer place in terms of minimizing exposure to judicial or legislative risk.

City Attorney Harrington asked Director Cullimore to address the scope of authority for Conditions of Approval in administrative decisions. Director Cullimore explained that with a CUP specifically, Conditions of Approval hinge on the standards. A CUP is entitled to approval, but there is recognition that conditional uses might have certain unique characteristics that could lead to a denial if these characteristics cannot be mitigated. If the characteristics can be mitigated in accordance with applicable

standards, then the CUP would be entitled to approval. He commented that in looking at CUPs, they look at any unique characteristics and the applicable standards for conditional use. Each Condition of Approval should then be tied to the standard.

Director Cullimore provided examples of standards from Herriman City that address potential detrimental effects. He listed the standards on the graphic and explained that the standards should try and be as objective as possible. As an example, he stated that if a Planning Commission determined that a use in a certain zone would have some of these listed impacts, then reasonable Conditions of Approval could be imposed to mitigate those impacts. He stressed that a Planning Commission cannot impose unreasonable Conditions of Approval or measures that could not be accomplished, such as requiring the purchase of property to fulfill a Condition of Approval. The standard is to mitigate, not eliminate the detrimental impact through Conditions of Approval.

Commissioner Suesser assumed that if a use could not be mitigated, then denial of a CUP would be appropriate. Director Cullimore agreed and added that the decision must be supported by substantial evidence. Up until a few years ago, he would say there had never been a case in Utah in which a court upheld a denial of a CUP. That changed during a CUP in Springdale involving a parking lot and a shuttle through Zion National Park, where the application was denied based on sufficient evidence to support the denial.

In response to Commissioner Suesser's inquiry, Director Cullimore confirmed that the Springdale case involved the impacts of an offsite parking lot on the residential neighborhood. He added that there was an extreme conflict of competing uses, and while the parking lot was a conditionally permitted use in the zone, the court agreed that the location rose to the level of being sufficiently detrimental that no mitigating conditions could be imposed.

Chair Hall understood that on appeal, a court would give the Planning Commission a lot of deference for a Plat Amendment, but if they issued a denial of a CUP it was much more likely to be overturned.

Director Cullimore reported that this highlighted the unique difference of a Plat Amendment because it is not a typical administrative decision and the good cause language provided a lot of discretion. He added that the discretion might be somewhat less in Park City because good cause is defined in the Code, and the Planning Commission must follow the local Ordinances.

In response to an inquiry, Director Cullimore explained that in Utah, the General Plan is an advisory document only, so it does not have any mandatory weight or force. The local Code can make it mandatory. City Attorney Harrington stated that for certain applications, they have a finding of consistency, and although the General Plan was not mandatory, an application could not be inconsistent with the General Plan. He added that MPDs and CUPs must have that affirmative finding.

Director Cullimore stated that courts have strictly construed “consistency with” because zoning takes away property rights. If two people could draw different conclusions, then it would be considered ambiguous, and in the property rights context, any ambiguity is resolved in favor of the property owner’s desired use. He suggested that if the Commission could reasonably conclude that a use was consistent with the General Plan, then the Commission should probably conclude that it is consistent with the General Plan.

In response to Chair Hall’s inquiry about Best Practices in creating denials for any application, Director Cullimore responded, “Show your work.” He mentioned *McElhaney v. Moab City* in which the Utah Supreme Court clearly held that decision-making bodies must show their work, especially with regard to denials. As an administrative decision-making body, the Planning Commission creates a record of their decisions, and should specifically outline on the record why an application does not comply with the Code. Additionally, the evidence supporting the conclusion should be specifically set forth.

With respect to public input versus public clamor, Director Cullimore stated that public opinion was considered public input in the legislative context because the decision-making body is making policy and determining the look of the community. Public opinion is built into the legislative process. He stated that the decision-making body must listen to public input, but it is up to that body as to how to weigh that input.

In the administrative context, this process can get the decision-making body into trouble. If there is public input against a certain use, but that use is allowed in the zone as a permitted use, that opinion is not relevant and is referred to by the courts as public clamor. Public clamor in the administrative context is an inappropriate form of evidence and should not be taken into account.

Chair Hall asked how that was to be balanced, and felt as though they give the public a false sense of input when they open a public hearing on an administrative application. Director Cullimore stated the best way was to not hold a public hearing on the matter by making it Staff level review. He recognized, however, that communities like their public processes; therefore, when they have a public hearing for an administrative matter there were a number of Best Practices.

One practice would be to separate legislative matters from administrative matters on the agenda. He suggested starting with legislative decision-making, and then having a break before the administrative session and announce and explain the type of input they could receive during the administrative part of the agenda. Some communities put this explanation on the back of the agenda. He added that public input could be useful in the administrative context in certain cases if they have an educated public who knows how to contribute. Some public input can be very valuable in terms of fact-finding, which the Commission can receive and rely upon because it is factual. However, if someone just expresses an opinion, the Commission cannot properly rely upon that opinion in its decision-making.

Chair Hall understood that Best Practices were in the formatting of the agenda and educating the public. She acknowledged the difficulties in balancing these issues. Chair Hall suggested Assistant Director Ward assist in crafting some educational materials for public input. Commissioner Shand asked about illegal lots and how they impact the Commission's decisions.

Director Cullimore explained that illegal lots refer to any lot that was created without going through the formal Subdivision approval process. Under general real estate law, anyone can hire a surveyor and divide up property for sale to others. But that does not make them eligible for development approval.

Lots become eligible for development approval when they have gone through the local government's Subdivision process to make it a developable lot. In older communities such as Park City, he understood that there were many lots created long ago. If those lots were legally created, then arguably the owners would have some entitlement to develop those lots. He referred to these lots as substandard or non-conforming lots. State law does not specifically address how these lots are to be treated, but a case footnote states they should just be treated as a non-conforming use. In that regard, the owners then have some vested rights to develop their property in some way.

Director Cullimore distinguished that situation from illegal lots that were divided up outside the formal Subdivision approval process. If an owner tries to subdivide an illegal lot and still owns the lots from the larger parcel, then it is easy to direct the applicant to go through the proper process. More difficult situations occur when the applicant is a good faith purchaser 4, 5, or 6 purchasers removed from the initial creation of the lot. From a legal standpoint, these applications could be denied. Additionally, State law allows local governments to put in processes to legalize these types of lots, and from a property rights standpoint that is useful and beneficial.

Commissioner Suesser asked about 30-year-old vested rights. Director Cullimore stated that if everyone agreed that the rights were still vested, they would have to go back and find out what rules applied at the time, as those rules would be applicable. He explained that Utah is an early vesting state. A vested right is the right to develop under an ordinance, and in Utah, an owner obtains a vested right in ordinances that exist when the fee is paid and a complete application is submitted. Some states do not recognize vested rights until there is a significant financial investment in the project.

For a 30-year vested right, Director Cullimore stated the rules that applied when the rights vested would apply to the application. He assumed a Development Agreement was involved, which would be part of the analysis along with the ordinances in place at the time.

Commissioner Van Dine raised the issue of substantial changes, and Director Cullimore stated that State Code did not address the issue, so whatever Park City enacted locally would govern.

The Commissioners found the presentation very informative.

7. REGULAR AGENDA

- A. 123 Ridge Avenue – Conditional Use Permit for a Nightly Rental –**
The Applicant Proposes a Nightly Rental in the Western Sub-Neighborhood of the Historic Residential Low-Density Zoning District. PL-23-05867.

Senior City Planner, Alexandra Ananth, reported that the Applicant was out of town and might join the meeting online. The application is for a CUP for a Nightly Rental at 123 Ridge Avenue, which is located in the Historic Residential – Low Density (“HR-L”) Zoning District at the top of King Road. The Lot is 8,600 square feet and contains a three-bedroom Single-Family Dwelling. She also noted it has a pretty long driveway with a two-car garage, and was constructed in 1994. Planner Ananth reported that the proposal complied with the LMC Zoning District requirements, as well as the parking requirements and the CUP criteria as outlined in the Draft Action Letter and as conditioned. The Development Review Committee reviewed the proposal and did not recommend any additional Conditions of Approval. No public input was received on this application.

Planner Ananth stated that the Planning Department recommended the Planning Commission open a public hearing and consider approving the Nightly Rental use. She noted the Conditions of Approval were outlined, but she would not go through them unless there were questions.

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

Commissioner Suesser asked if there was a list showing which homes have Nightly Rentals. Planner Ananth stated the Planning Department had the list, and she explained that this home was in a zone where twelve Nightly Rentals were allowed, and this would be the tenth of the twelve allowed applications. Planner Ananth was unsure if that list was available online, but it could be provided to a member of the public upon request.

Chair Hall asked about the number of parking spaces in the driveway. Planner Ananth explained that there were two spaces in the garage, and the driveway was very extensive and could accommodate at least two Code-compliant parking spaces. Planner Ananth added that on-street parking was prohibited.

Commissioner Suesser noted that this cleared up a question she had because the Conditions limited this Nightly Rental to two parking spaces when the site has four onsite parking spaces. Planner Ananth explained that was typical for Nightly Rentals even though there was room for four parking spaces. She added that with the three-bedroom house, it was unlikely they would have more than two cars.

Commissioner Frontero asked if there were other areas with a specified limited number of Nightly Rentals. Assistant Director Ward stated that this was the only zone that had a CUP for Nightly Rentals, and the HR-L zone has three sub-zones. Because of the substandard streets and Steep Slopes, the CUP for this sub-zone included the cap of twelve Nightly Rentals.

MOTION: Commissioner Johnson moved to APPROVE 123 Ridge Avenue – Conditional Use Permit for a Nightly Rental, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter as follows:

Findings of Fact

1. The Applicant seeks a CUP for a Nightly Rental at 123 Ridge Avenue, located in the HRL Zoning District.
2. 123 Ridge Avenue is a three-bedroom Single-Family Dwelling constructed in 1994 and includes a two-car garage and a large driveway area.
3. 123 Ridge Avenue is in the western sub-neighborhood of the HRL.
4. No more than twelve (12) Nightly Rentals are allowed in the western sub-neighborhood. At the time of application, there are ten (10) approved Nightly Rentals in this sub-neighborhood.
5. 123 Ridge Avenue is Lot 1 of the Ridge Avenue Plat Amendment Amending Lot 1, Summit County Recorder Entry No. 1157217, recorded on March 5, 2021, and consists of 0.2 acres (8,617 square feet). The Lot was originally part of the Ridge Avenue Subdivision recorded on December 15, 1995, as Entry No. 444460. The Lot is adjacent to the Alice Claim Subdivision also recorded on March 5, 2021, as Entry No. 1157218. There are no easements or Conditions of Approval that impact the Conditional Use Permit for a Nightly Rental.
6. The proposal for a Nightly Rental complies with LMC Section 15-2.1, Historic Residential Low-Density District Requirements.
7. The Development Review Committee reviewed the proposal on November 7, 2023, and did not identify any issues.
8. The proposal, as conditioned, complies with the Conditional Use Permit criteria outlined in LMC § 15-1-10(E).

CUP Review Criteria	Analysis of Proposal
Size and location of the Site –	No Required Mitigation - 123

No maximum or minimum Lot or dwelling size for Nightly Rental properties or dwellings	Ridge Avenue is a 3,000-square-foot Single-Family Dwelling with three bedrooms on a 0.2 acre (8,617 square feet) Lot. Nightly rental occupancy is limited by the International Residential Code and requires a Business License. The Building Department will determine the maximum occupancy to ensure that appropriate emergency openings are provided.
Traffic Considerations	See COA 2 - 123 Ridge Avenue is accessed by a private driveway. The site has an access easement agreement (No. 1062990) from their abutter at 135 Ridge Avenue to connect to Ridge Avenue. There is not expected to be a significant change in traffic generated for the property as a Nightly Rental compared to a Single-Family Dwelling. 123 Ridge Avenue has a two-car garage and additional room for parking in the driveway. Nightly Rentals agreements for properties in the western sub-neighborhood must limit the number of vehicles to the number of on-site parking spaces. COA 2 limits the number of cars to no more than two vehicles based on the number of available parking stalls. All-wheel drive vehicles are required during the winter season.
Utility capacity	No Required Mitigation – No change to utility capacity or storm water run-off is anticipated.
Emergency vehicle access	No Required Mitigation – No change to access is anticipated.

Off-Street parking	See COA 2 – 123 Ridge Avenue has a two-car garage and additional room for parking in the driveway. Nightly Rentals agreements for properties in the western sub-neighborhood must limit the number of vehicles to the number of on-site parking spaces. COA 2 limits the number of cars to no more than two vehicles based on the number of available parking stalls and requires all-wheel vehicles during the winter season.
Vehicular and pedestrian circulation	No Required Mitigation – No change to circulation is proposed.
Fencing, screening, and landscaping	No Required Mitigation – No change to fencing, screening, or landscaping are proposed.
Orientation to buildings on adjoining Lots	No Required Mitigation – 123 Ridge Avenue is buffered by vacant Lots from existing neighbors. There are no residents living in any of the Alice Claim subdivision Lots yet.
Open Space	No Required Mitigation – No changes to the site are proposed.
Signs and lighting	See COA 5 and 6 – No signs are proposed. COA 5 prohibits any signs advertising the Nightly Rental. COA 6 requires that any outdoor lighting conform to the Dark Sky Code LMC § 15-5-5(J) prior to issuance of a Business License.
Compatibility of the design of the Structure	No Required Mitigation – No changes to the single-family dwelling are proposed.

Noise and mechanical factors	See COA 7 – The property owner is responsible for regulating the occupancy and noise created by occupants of the Nightly Rental. Violations of the Municipal Planning Department Code of Park City Chapter 6-3, Noise, illegal conduct, or any other abuse that violates Nightly Rental regulations or COAs are grounds for business license revocation.
Control of delivery and service vehicles	See COA 8 – Trash receptacles shall be stored on-site and placed for trash pickup according to the Municipal Code of Park City § 6-1-11.
Ownership	See COA 1 – 123 Ridge Avenue is owned by the Applicant who must receive and maintain a Business License for the Nightly Rental Use.
Sensitive Land	No Required Mitigation – 123 Ridge Avenue is not located within the Sensitive Land Overlay and no changes to the site are proposed.
Consistency with the General Plan	No Required Mitigation – Old Town Neighborhood Section 6.7 (pg. 217) of the General Plan recognizes a balance of nightly rentals and primary housing stock. The subzone cap of 12 Nightly Rentals implements such balancing of interests, and the application complies with the zone requirements. The Applicant has stated that they spend portions of the winter in a warmer climate but return often for work, which precludes them from renting to long-term renters.

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Conclusions of Law

1. The Application, as conditioned, complies with LMC § 15-1-10(E) Conditional Use Permit Criteria and LMC Chapter 15-2.1, Historic Residential Low-Density District.
2. The proposed Use, as conditioned, is compatible with the surrounding structures in Use, scale, mass, and circulation.
3. The proposed Use is consistent with the Park City General Plan.
4. The effect of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval

1. The Applicant shall be responsible for obtaining a Business License for the Nightly Rental and the Use must be inspected by the Building Department prior to being offered for rent.
2. Nightly Rental Agreements for properties in the western sub-neighborhood must limit the number of vehicles to the number of on-site parking spaces. 123 Ridge Avenue has a two-car garage and additional room for parking in the driveway. The Nightly Rental Agreement for 123 Ridge Avenue shall limit the number of vehicles to two vehicles. The Nightly Rental Agreement shall also specify that all-wheel drive vehicles are required during the winter season.
3. The Nightly Rental Agreement for 123 Ridge Avenue shall provide renters with information regarding walkable access to skiing, Park City's Historic Main Street, Old Town, and Park City's free transit service.
4. Property management contact information shall be displayed in a prominent location inside the Nightly Rental.
5. Outdoor signage advertising the property as a nightly rental is prohibited.
6. Exterior lighting shall comply with LMC § 15-5-5(J), Outdoor Lighting.
7. The property owner is responsible for regulating the occupancy and noise created by occupants of the Nightly Rental. Violations of the Municipal Code of Park City Chapter 6-3, Noise, illegal conduct, or any other abuse

that violates Nightly Rental regulations or COAs are grounds for business license revocation.

8. Trash receptacles shall be stored on-site and placed for trash pickup according to the Municipal Code of Park City § 6-1-11.

Commissioner Frontero seconded the motion.

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

- B. Land Management Code Amendments** - The Planning Commission Will Review Amendments to Create a Maximum Lot Size in the Residential - 1, Recreation - Medium Density, and Recreation Commercial Zoning Districts. PL-23-05821.

City Planner, Spencer Cawley, reported that the proposed LMC Amendments arose out of the discussion on Lot Combinations in the Historic Residential Zoning Districts. One of the requests from the Planning Commission was to consider also establishing a Maximum Lot Size in the transition zones just outside the Historic Zoning Districts. He presented a map and explained that the area highlighted in blue now had an established Maximum Lot Size as adopted by the City Council on October 26, 2023. The areas highlighted in red were the transition zones: Residential – 1 (“R-1”), Recreation Commercial (“RC”), and Recreation – Medium (“R-M”). On August 29, 2023, the Planning Department issued a Pending Ordinance that established the Maximum Lot Size for these transition zones.

Planner Cawley explained that the Park City General Plan Goal 7 was to create a diversity of primary housing opportunities to address the changing needs of residents. When the Commission worked through Maximum Lot Sizes in the Historic Districts, it was noted that the General Plan encouraged establishing Maximum Lots to provide a tool for compatible mass and scale of new structures within these areas.

In contrast, he stated that Planning Strategy 7.1.1 in the General Plan recommended decreasing Minimum and Maximum Lot Size requirements that might allow for affordable or attainable infill housing. He mentioned the diversity of housing stock that would include price, type, and size that would create this variety of context-sensitive housing opportunities.

Planner Cawley reported that the Planning Staff evaluated each of these transitional zones for opportunities to provide infill development on vacant parcels. He highlighted the R-1 and R-M Zoning Districts and stated within these two districts there was one parcel that would meet the minimum requirements for development. This parcel was large enough to accommodate up to a duplex. There were a total of ten parcels between the three zoning districts that were vacant, and only six of those parcels met the minimum requirements for development.

In the Recreation Commercial Zoning District, Planner Cawley stated five parcels would meet the minimum requirements. He noted this did not include the proposed North Norfolk lots currently under review. The City or the Redevelopment Agency ("RDA") owned four lots, and one lot had a Plat Note that restricts the building square footage to 2,400 square feet.

Planner Cawley recalled that when they were discussing parcel sizes for lots in the Historic Districts, the average parcel size was 4,730 square feet. He provided an overall average for the R-1, RC, and R-M Districts to provide context showing a larger parcel square footage in these transitional zoning districts. He next presented a table outlining the proposed amendments. Within each zone, there would be consistency to establish Maximum Lot Size across the three transitional zones. The Lot Size for a Single-Family Dwelling in all three zones would be a maximum of two Old Town Lots or 3,750 square feet. Within the R-M Zoning District, the square footage would go up to a fourplex. He mentioned that a triplex in the R-1 Zoning District was a conditional use and a multi-unit or fourplex was a conditional use in the RC Zoning District. Any Historic sites within these zones would be exempt from the Maximum Lot Size requirement.

Planner Cawley requested the Planning Commission provide feedback on certain issues. He read the questions as follows:

- Due to the low potential for new residential development in the transition zones, does the Commission consider a Maximum Lot Size appropriate for these districts?
- Are there additional justifications for establishing a Maximum Lot Size in these areas?
- What additional information does the Planning Commission need to evaluate a Maximum Lot Size in these zones?

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

Commissioner Shand recalled Planner Cawley stating that the Minimum Lot Size might prohibit further development on some of these parcels. Planner Cawley explained that as written, the Code contained a Minimum Lot Size requirement that would remain as part of these amendments. These amendments would only establish a Maximum Lot Size. Commissioner Shand felt the Maximum Lot Size of two Old Town Lots would allow for a pretty good-sized home in these zones, and he would not oppose extending the Maximum Lot Size restriction to these zones. The remaining Commissioners agreed with Commissioner Shand.

With regard to the second question, City Attorney Harrington stated that the Commission did not need to respond because the question was aimed at whether there was something Staff missed that might lead the Commission to want to regulate Maximum Lot Size. He asked if the Commission needed any more information. Chair

Hall observed there was consensus that the Commission did not require additional information.

Commissioner Shand asked what would happen to Lots that did not meet the Minimum Lot Size requirement. Planner Cawley stated they would remain vacant unless and until the requirement was changed, and confirmed these Lots would still be required to meet the Minimum Lot Size requirement. City Attorney Harrington added that it would depend on the origin of these Lots, and if they were previously approved they might have some non-conforming rights. These owners also would have the ability to apply for a variance from that standard and there might be arguments as to other legal entitlements. He cautioned that as these amendments are adopted, the burden shifts onto the City, which cannot have its cake and eat it too.

Chair Hall asked about the location of the four non-conforming Lots and suggested the possibility of cleaning up the Code. Planner Cawley stated two parcels near the roundabout would not be developable because they are too small. He pointed to another parcel that was platted as Open Space. It was determined to be a non-issue.

Commissioner Suesser mentioned that the recitals stated the Land Management Code establishes Minimum Lot Sizes but does not establish Maximum Lot Sizes for Residential Historic Districts. She noted they just changed that by the prior amendments and this recital should be removed. Planner Cawley stated they would update that information.

MOTION: Commissioner Van Dine moved to CONTINUE Land Management Code Amendments – Maximum Lot Size in Residential – 1, Recreation – Medium Density, and Recreation Commercial Zoning Districts, and the public hearing thereon to January 10, 2024. Commissioner Shand seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Chair Hall noted that Agenda Item 6. C was previously continued.

Chair Hall stated that more than three Commissioners would be meeting at The Annex for a beverage after the meeting.

8. ADJOURNMENT

MOTION: Commissioner Suesser moved to adjourn.

The meeting adjourned at approximately 9:00 p.m.

Common Legal Issues in Land Use

Legislative/Administrative Decisions	Role of the Planning Commission	Subdivisions
Vested Rights	Exactions	Public Input vs "Clamor"
Nonconforming Uses	Conditional Use Permits	"Illegal" Lots
Impact Fees	Planning for Water	Short-term Rentals
Annexation	Development Agreements	Accessory Dwelling Units

Legislative vs Administrative Decision-making

Legislative decisions generally involve making laws of general applicability, and are based on the weighing of broad, competing policy considerations.

Typical Legislative Decisions

- Adoption & amendment of the general plan
- Enactment & amendment of land use ordinances and development standards
- Enactment of a zone map & approval of a zone change
- Annexation decisions
- *Maybe* development agreements

Legal Standard of Review

1. Decision must be consistent with applicable state and federal law (cannot be illegal)
2. It must be "reasonably debatable" that the decision could advance the general welfare or public interest

Administrative decisions generally involve applying existing codes to a particular development proposal, based on individual facts and circumstances.

Typical Administrative Decisions

- Subdivisions
- Conditional use permit
- Site plan
- Building Permit
- Variances
- *Maybe* development agreements

Legal Standard of Review

1. Decision must be consistent with relevant state and federal law, local ordinances, and any vested rights (cannot be illegal)
2. Regarding factual determinations, the decision must be supported with substantial evidence

CUP Nightly Rental

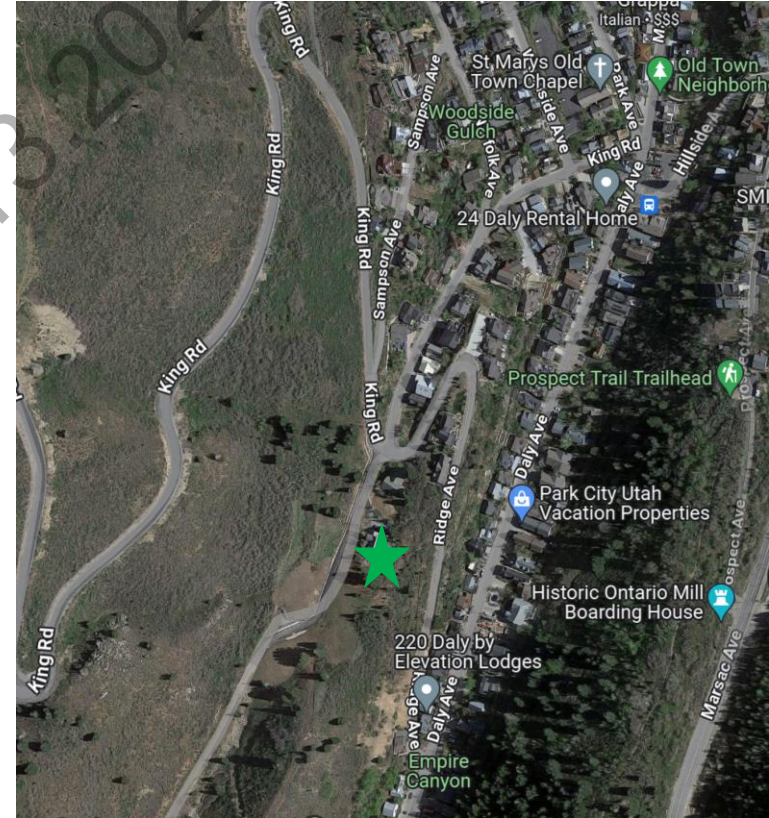
123 Ridge Avenue

Planning Commission
November 8, 2023



CUP: Nightly Rental

- 123 Ridge Avenue is located in the Historic Residential – Low Density Zoning District.
- Lot is 8,617 square feet and contains a 3-bedroom SFD constructed in 1994 and includes a 2-car garage with room for 2 additional code-compliant parking stalls in the driveway.



CUP: Nightly Rental

- There are currently 10/12 Nightly Rentals in the Western Sub-Neighborhood of the HRL Zoning District.
- The proposal for a Nightly Rental complies with LMC Chapter 15-2.1, Historic Residential Low-Density District Requirements.
- The proposal complies with LMC Chapter 15-3, Off-Street Parking Requirements.
- The proposal, as conditioned, complies with the Conditional Use Permit criteria outlined in LMC § 15-1-10(E).
- The Development Review Committee reviewed the proposal on November 7, 2023. No additional Conditions of Approval are required.
- No public input was received.



Conditions of Approval

1. The Applicant shall be responsible for obtaining a Business License for the Nightly Rental and the Use must be inspected by the Building Department prior to being offered for rent.
2. Parking for Nightly Rentals with less than six (6) bedrooms is based on the parking requirement for the dwelling, which is two (2) parking stalls. 123 Ridge Avenue has a two-car garage and room for two code-compliant (nine feet (9') wide by eighteen feet (18') long) parking stalls in the driveway, meeting the parking requirements. The Nightly Rental Agreement for 123 Ridge Avenue shall limit the number of vehicles to two vehicles which shall be allowed to be parked in the two-car garage. The Nightly Rental Agreement shall also specify that all-wheel drive vehicles are required during the winter season. On-Street parking is prohibited.
3. The Nightly Rental Agreement for 123 Ridge Avenue shall provide renters with information regarding walkable access to skiing, to Park City's Historic Main Street, to Old Town, and to Park City's free transit service.
4. Property management contact information shall be displayed in a prominent location inside the Nightly Rental.



Conditions of Approval

5. Outdoor signage advertising the property as a nightly rental is prohibited.
6. Exterior lighting shall comply with LMC § 15-5-5(J), Outdoor Lighting.
7. The property owner is responsible for regulating the occupancy and noise created by occupants of the Nightly Rental. Violations of Municipal Code of Park City Chapter 6-3, Noise, illegal conduct, or any other abuse which violates Nightly Rental regulations or COAs is grounds for business license revocation.
8. Information on recycling shall be provided to nightly rental tenants. Trash and recycling receptacles shall be stored on site and placed for trash and recycling pickup according to the Municipal Code of Park City § 6-1-11.