



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JULY 13, 2022**

COMMISSIONERS IN ATTENDANCE: Chair John Phillips, John Kenworthy, Laura Suesser (attended virtually), Bill Johnson, Christin Van Dine, Sarah Hall (joined the meeting in progress)

EX OFFICIO: Gretchen Milliken, Planning Director; Rebecca Ward, Assistant Planning Director; Alexandra Ananth, Senior City Planner; Makena Hawley, City Planner; Browne Sebright, City Planner; Mark Harrington, City Attorney

1. ROLL CALL

Chair Phillips called the meeting to order at approximately 5:30 p.m. Chair Phillips took a roll call, and noted that Commissioner Sarah Hall was absent, but would possibly join the meeting in progress.

The following was read:

The Planning Commission of Park City, Utah will hold its regular meeting with an anchor location for public participation at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah 84060 on Wednesday, July 13, 2022. Planning Commission members may participate in person or connect electronically by Zoom or phone. Members of the public may attend in person or participate electronically.

Public comments will also be accepted virtually. To comment virtually, use eComment or raise your hand on Zoom through www.parkcity.org/public-meetings. Written comments submitted before or during the meeting will be entered into the public record but will not be read aloud. For more information on attending virtually and to listen live, please go to www.parkcity.org.

Chair Phillips reported that the Commission attended a site visit for 1115 Aerie Drive to inform them of the conditions of the site to assist with their discussions on the Agenda Item for that property.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from June 8, 2022.

Commissioner Kenworthy referenced the first sentence of the third paragraph on page 18 and

stated that it should read: "Commissioner Kenworthy noted that Utah was one of the fastest growing states, and Wasatch County was one of the fastest growing counties in the nation, and here is a ski mountain with a CCC number that talks to stewardship. He felt a specific daily ski cap on the mountain needed to be a Condition of Approval." He added that in the same paragraph, beginning with "Commissioner Kenworthy also felt..." should read: "Commissioner Kenworthy also felt there needed to be additional capacity monitoring for the City included as a Condition of Approval."

MOTION: Commissioner Kenworthy moved to APPROVE the Planning Commission Meeting Minutes from June 8, 2022, as corrected. Commissioner Suesser seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

B. Consideration to Approve the Planning Commission Meeting Minutes from June 15, 2022.

MOTION: Commissioner Johnson moved to APPROVE the Planning Commission Meeting Minutes from June 15, 2022, as written. Commissioner Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

C. Consideration to Approve the Planning Commission Meeting Minutes from June 22, 2022.

MOTION: Commissioner Johnson moved to APPROVE the Planning Commission Meeting Minutes from June 22, 2022, as written. Commissioner Van Dine seconded the motion.

VOTE: Commissioner Kenworthy-Aye, Commissioner Suesser-Abstained, Commissioner Johnson-Aye, Commissioner VanDine-Aye, Chair Phillips-Aye. The motion passed unanimously with one abstention. Commissioner Suesser abstained from the vote because she was not present at that meeting. Commissioner Hall was not present for the vote.

3. PUBLIC COMMUNICATIONS

There were no public communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Planning Director, Gretchen Milliken, reported that interviews for the Planning Commissioners would occur before the City Council on July 14, 2022, beginning at 2:30 p.m. She noted that Commissioners Kenworthy and Suesser were on the list to be interviewed. She added that there would be a joint City Council and Planning Commission meeting on August 30, 2022, at 5:30 p.m. to discuss Fractional Ownership.

Commissioner Kenworthy thanked Doug Ogilvy and his Homeowners' Association, and all the work of the Planning Staff for the historic preservation and agreement that resulted in the return of the Daly West Headframe. He stated that if they could find more unity like that, they could go a long way in Park City. He specifically referenced Steve Issowits and Sandra Morrison for their

efforts. He stressed that this would not have been accomplished without Planning Staff. He mentioned that they had to get a new roof right before winter, and noted that the applicants were generous and understood the meaning of historic preservation and the economic driver that it is.

Mr. Ogilvy thanked Commissioner Kenworthy for his comments and stated that the City came together with the Homeowners Association for something that made the funding possible. He felt that in his over 30 years in the development business, this project was one that his mother would be most proud of because of the historic preservation of something that will now be there for another 100 years.

Chair Phillips announced that after much consideration, he would finish his term this month, and the next meeting would be his last on the Planning Commission. This was not an easy decision, but for personal and family reasons he would not be able to stay on until September. He added that he took into consideration what was coming up for the Planning Commission and felt confident that the Commission could carry on without his presence until his replacement was appointed.

Commissioner Kenworthy thanked Chair Phillips for his service.

Chair Phillips noted that the Agenda would be re-ordered to accommodate unanticipated continuations. Items 5.B. and 5.F. would be heard first.

5. REGULAR AGENDA

- A. 9300 Marsac Avenue – Sommet Blanc Condominiums Plat – The Applicant is Requesting a Condominium Plat to Memorialize Previously Granted Density to Confirm the Configuration of Proposed Units and Identify Areas of Private, Limited Common, and Common Ownership. The Project Includes 3 Buildings, 49 Residential Units, 6 Affordable Deed Restricted Units, 2 ADA Units, and a 3,600 Square Foot Restaurant. PL-22-05242.**

City Planner, Makena Hawley, explained that the applicant requested a Condominium Plat to memorialize previously granted density, confirm the configuration of the proposed units, and separate the Private, Limited Common, and Common Ownership. The property is located at 9300 Marsac Avenue in the Residential Development ("RD") Zoning District. The lot is also governed by the 2007 Empire Pass B-2 Master Planned Development ("MPD"), the 2007 Amended Flagstaff Development Agreement, 14 specific technical reports, and the 2017 B-2 East Subdivision. She stated that the proposed Condominium Plat included three buildings, 49 residential units, six deed-restricted affordable units, two ADA units, and one restaurant under 3,600 square feet. It also included 107 parking stalls for Sommet Blanc, 56 parking stalls for Empire Day Lodge, and a three-acre conservation easement.

Planner Hawley reported that on March 9, 2022, the Planning Commission approved an amendment to the MPD, as well as the Development Agreement and a Conditional Use Permit ("CUP") for the multi-unit dwelling. This plat would memorialize that approval. She stated that Staff found the proposal complied with the RD Zoning District, the general subdivision requirements outlined in Land Management Code ("LMC") Section 15-7.3-2, general lot design requirements, and all of the Conditions of Approval outlined in multi-unit dwelling CUP, as well as the Conditions of Approval outlined in the modification to the MPD and Development Agreement. Staff also found good cause for this Condominium Plat, which is consistent with the density and

uses identified in the approved Development Agreement and MPD, as well as the multi-unit CUP. Additionally, the Condominium Plat provides for six affordable units.

Planner Hawley reported that Staff received no public input. Staff recommended that the Commission forward a positive recommendation for the City Council's consideration on September 1, 2022, for the Sommet Blanc Condominiums subject to the Findings of Fact, Conclusions of Law, and Conditions of Approval. She announced that Mr. Ogilvy was present on behalf of Sommet Blanc.

Chair Phillips opened the public hearing. There were no public comments. The public hearing was closed.

MOTION: Commissioner Johnson moved to forward a positive recommendation for City Council consideration on September 1, 2022, for 9300 Marsac Avenue, Sommet Blanc Condominiums Plat, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as follows:

Findings of Fact

1. The Sommet Blanc Condominium Plat proposes 3 lodges, with 49 residential units (162,000 square feet), 6 Deed Restricted Units, 2 ADA Units, and 1 Restaurant (3,559 square feet).
2. The Condominium plat is located in the Residential (RD) Zone.
3. The Condominium plat is subject to the requirements of the 2007 Flagstaff Development Agreement (DA) as amended, the 2007 Empire Pass Pod B2 Master Planned Development (MPD) as amended, 14 specific technical reports, the 2017 B2 East Subdivision, and the approved Conditional Use Permit for a Multi-Unit Dwelling by the Planning Commission on March 9, 2022.
4. On March 9, 2022, the Planning Commission approved an Amendment to the 2007 Empire Pass B-2 Master Planned Development as well as the DA and a Conditional Use Permit to review the impacts of a Multi-Unit Dwelling and allow a modification to design and volumetrics, including a height exception.
5. On April 18, 2022, the City received an application for the Sommet Blanc condominium plat.
6. On May 9, 2022, staff deemed the application complete.
7. The proposed condominium plat memorializes density, size, and configuration of proposed units and identifies areas of private and common ownership.
8. Multi-Unit Dwellings are a Conditional Use in the RD Zone.
9. Through the Flagstaff Annexation and 2007 Flagstaff DA, density was allocated to clustered developments through Empire Pass.

10. On March 14, 2007, the Planning Commission approved an MPD for Pod B2 at Empire Pass as an amendment to the July 28, 2004, Village at Empire Pass MPD allocating 81 multi-family Unit Equivalents (UEs) in not more than 70 condominium units.
11. The Applicant recorded a Development Covenant which allocates 3,600 square feet of Resort Support Commercial from the maximum 75,000 square feet allowed in Resolution 20-99 that granted the equivalent of a "large-scale" MPD.
12. On July 5, 2022, the Planning Director made a Determination of Setback Requirements for Unusual Lot Configurations pursuant to § 15-4-17.
13. The RD Front Setback of 20 feet for the Main Building and 25' for a front-facing garage complies.
14. The RD Rear Setback of 15 feet complies.
15. The RD Side Setback of 12 feet complies.
16. On March 9, 2022, the Planning Commission approved an amendment to the Pod B2 MPD that modified a Condition of Approval to allow a height exception for Building A of 82 feet and an allowance of 94 feet for Building B and 106 feet for Building C above benchmarked grades (USGS 8330' for north datum point and 8380' for south datum point).
17. Condition of Approval (COA) #48 from the approved CUP requires a restriction that limits elevator overruns and mechanical screening to extend no more than three feet (3') above the permitted Building Height as shown in plans approved on March 9, 2022.
18. Building A reaches a maximum USGS elevation of 8,423' 4" over a benchmark of 8,345' (max allowed USGS 8,462') and a height of 81 feet 4 inches.
19. Building B reaches a USGS elevation of 8,452' 4.5" over a benchmark of 8,362' (max allowed USGS 8,474') and a height of 91' 7.25".
20. Building C reaches a USGS elevation of 8,482' 3.5" over a benchmark of 8,376' 6" (max allowed USGS 8,486') and a height of 105' 8.25".
21. Per LMC §15-3, Buildings A, B, and C require 142.6 off-street parking spaces for residential and restaurant uses
22. Each market rate and affordable unit will have one parking stall assigned to the unit. Per Flagstaff DA, the parking stall requirement is reduced by 25% to 107.1 rounding to 107 parking spaces.
23. The 2007 MPD permits up to 75 parking spaces on the B2 East site for the benefit of Deer Valley's adjacent Fireside Dining operation in the Empire Day Lodge.

24. The Sommet Blanc project includes 60 tandem parking spaces within a parking deck dedicated for valet parking by Deer Valley.
25. Sommet Blanc Residences will provide 163 parking spaces.
26. Subject to the COAs of the Amended DA - Materials, color samples, and final design details shall be approved by staff prior to building permit issuance and shall be in substantial compliance with the elevations reviewed by the Planning Commission on March 9, 2022.
27. 49 Market rate units are proposed for a total of 162,000 square feet or 81 UEs.
28. Two ADA units are proposed for a total of 1,609 square feet. These must remain Common Space.
29. AUEs and ADA units are not calculated in the overall residential square footage.
30. The Residential Accessory Use was not counted in the DA or the MPD, the applicant proposes a total of 141,660 square feet.
31. The total On-Mountain remaining requirement for the Flagstaff DA is 4.03 Affordable Unit Equivalents (AUEs). The applicant proposes six (6) Affordable housing units (Four Studio apartments and two, two-bedroom units) for a total of 5.9 AUEs or 4,683 sf.
32. Affordable Units constructed on-site do not count toward the Residential Unit Equivalents of an MPD and are therefore exempt from project Density.
33. The name Sommet Blanc Condominiums does not duplicate any existing Subdivision.
34. The Lot and site disturbance has been extensively reviewed by the Planning Commission and the Planning Department.
35. No Open Space is required at this time due to Sommet Blanc Condominiums being developed under the 2007 Flagstaff DA which had designated development pods and dedicated open space. Sommet Blanc is located in development Pod B.
36. The Pod B2 MPD Conclusion of Law #10 notes that the Flagstaff Annexation was not included in the Sensitive Lands Overlay.
37. The property is the site of the historic Mazepah mine shaft. In August of 2018, the EPA confirmed that all work performed to remediate and remove soil under an Administrative Settlement and Order on Consent for Removal Action was in accordance with EPA requirements.

38. The proposed structure meets the Design Guidelines within the Empire Pass Design Guidelines in effect for Empire Pass as amended by the Planning Commission on March 9, 2022 and approved by the Empire Pass Design Review Board.
39. The proposed Condominium plat allows for reasonable driveway Access.
40. Through extensive Planning Commission review, a site plan creating a significantly smaller disturbance to the Lot allowed for a 3.06-acre Conservation Easement.
41. The Sommet Blanc CUP and Amendment to the Flagstaff DA and Pod B2 MPD required 49 COAs to be met.
42. The proposed Condominium Plat complies with Land Management Code Section 15-7.3-2, as outlined in the staff report, and conditioned below.
43. The proposed Condominium Plat complies with Land Management Code Section 15-7.3-3, as outlined in the staff report, and conditioned below.
44. The proposed Condominium Plat complies with the Conditions of Approval outlined in the Multi-Unit Dwelling Conditional Use Permit and Modifications to the Master Planned Development and Development Agreement Final Action Letter.

Conclusions of Law

1. There is Good Cause for this Condominium Plat because it is consistent with the density and uses identified in the approved DA, Pod B2 Master Planned Development, and CUP as amended. The condominium plat allows for the sale of individual units and provides two affordable housing units on site.
2. The proposed Subdivision complies with Land Management Code § 15-7.3-2 General Subdivision Requirements, as outlined in the staff report, and conditioned below.
3. The proposed Subdivision complies with Land Management Code § 15-7.3-3 General Lot Design Requirements, as outlined in the staff report, and conditioned below.
4. The proposed Subdivision complies with the Conditions of Approval outlined in the Multi-Unit Dwelling Conditional Use Permit and Modifications to the Master Planned Development and Development Agreement Final Action Letter.
5. The Condominium Plat complies with Land Management Code Chapters 15-2.13 Residential Development Zoning District, as outlined in the staff report, and conditioned below.
6. Neither the public nor any person will be materially injured by the proposed Condominium Plat.

7. Approval of the Sommet Blanc Condominiums Plat, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The Planning Director, City Attorney, and City Engineer will review and approve the final form and content of the Condominium plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The Applicant shall record the Condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year, this approval will be void, unless the Applicant submits a request for an extension in writing prior to the expiration date and an extension is granted by the City Council.
3. The City Engineer shall review and approve all lot grading, utility installations, public improvements, and drainage plans for compliance with City standards as a condition precedent to building permit issuance.
4. Final utility and access shall be reviewed and approved by the Park City Fire District, City Engineer, and City Attorney as a condition precedent to plat recordation.
5. The property is not located within the Soils Ordinance and therefore it is not regulated by the City for mine-related impacts. However, if the property owner encounters mine waste or mine waste impacted soils, they must handle the material in accordance with State and Federal law.
6. The affordable housing obligations outlined in the 2022 CUP Conditions of Approval shall be satisfied prior to City issuance of a Certificate of Occupancy.
7. The Applicant shall submit draft deed restrictions in compliance with the approved affordable Units for review and approval by the Planning, Housing, and Legal Departments prior to submitting the mylar. The deed restrictions shall be approved, executed, and recorded simultaneously with the condominium plat.
8. No Certificate of Occupancy for any market rate unit shall be issued by the City until the affordable employee units required for that phase of development are complete and deed restrictions, in a form approved by the City Attorney's Office, are recorded.
9. Materials, color samples, and final design details shall be approved by staff prior to building permit issuance and shall be in substantial compliance with the elevations reviewed by the Planning Commission on March 9, 2022, and approved by the Empire Pass Design Review Board.

10. The Limits of disturbance shall not cross into the Conservation Easement except for allowances stated within the Conservation Easement, including such maintenance for the Mid-Mountain Trail and an access route for the Snyderville Basic Water Reclamation District.
11. The extension of the existing road and curb cut and all new utility lines shall meet compliance with all requirements as directed by the City Engineering Department.
12. Interior and exterior fire sprinkler systems may be required by the Park City Fire District at the time of Building Permit review.
13. The Applicant will record a Conservation Easement on 3.06 acres on the upper portion of the site prior to Condominium Plat recordation.
14. All Conditions of Approval outlined in the approval for the Multi-Unit Dwelling Conditional Use Permit and Modifications to the Master Planned Development and Development Agreement shall be completed by their specified dates noted in the Final Action Letter from March 9, 2022.
15. Two ADA units are proposed for a total of 1,609 square feet. These units are to remain as Common Area.
16. The existing 10-foot temporary power easement on the plat must be vacated or re-located outside the building footprint prior to recordation.
17. CC&Rs shall be reviewed and updated to meet compliance with Affordable Unit Conditions of Approval prior to recordation.

Commissioner Kenworthy seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

B. 14 Iron Canyon - Plat Amendment - The Applicant Proposes to Adjust the Platted Building Envelope to Build a New Home. PL-22-05232.

Chair Phillips noted that the above item would be continued to July 27, 2022. Planner Hawley reported that the continuance would allow for completion of a Sensitive Lands Overlay analysis. She suggested opening the public hearing before continuing the item.

Chair Phillips opened the public hearing. There were no public comments. The public hearing was closed.

MOTION: Commissioner Van Dine moved to CONTINUE 14 Iron Canyon Subdivision, Lot 33 Building Pad Amendment, to July 27, 2022. Commissioner Johnson seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

C. 8200 Royal Street Stag Lodge Unit 50 – Condominium Plat Amendment – The Applicant Proposes to Increase the Private Ownership Area by 612 Square Feet. PL-22- 05267.

Senior Planner, Alexandra Ananth, reported that Items 5.C. and 5.D. were two separate applications that would be presented together due to the similarities between the applications. There would be two separate hearings and two separate votes. She stated that the applications were for two Condominium Plat Amendments for the Stag Lodge Condominiums, located at 8200 Royal Street. Units 7 and 50 were proposing Plat Amendments to increase the private area of the respective condominiums.

Planner Ananth reported that Stag Lodge-Phase 1 was recorded in 1985, and had been amended three times. Phase 4 was recorded in 1992 and had been amended three times. She noted that all of the amendments were similar in that they increased private area or combined units.

With respect to Unit 7, Planner Ananth stated that the applicant proposed to increase the private ownership by 786 square feet by enclosing a deck on the upper level, as well as incorporating the loft area into the plat. She explained that the loft area was built when the unit was originally constructed, but never noted on the plat. She stated that the proposal for Unit 50 was to add some crawl space in the lower level, which would increase their private area by 370 square feet. Both of the proposals complied with the RD Zoning District, the Deer Valley MPD, and the Stag Lodge Condominium Conditions of Approval, and have been approved by the Homeowners' Association.

Planner Ananth reported that both units have two-car garages, which meets the parking requirements. No new parking would be required as a result of these amendments. She reported that the Planning Department found good cause, as the Plat Amendments would not change the footprints of the building, and therefore have no impacts on the setbacks or open space of the site. In addition, there would be no negative impacts on the public, and would not create any non-conformities. These amendments would also be consistent with previously approved Condominium Plat Amendments in this building.

Planner Ananth indicated that no public input was received on either application. The Planning Department, therefore, recommended that the Commission hold public hearings and consider forwarding positive recommendations for the City Council's consideration on September 1, 2022, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Ordinances.

Commissioner Kenworthy asked if the addition of a crawl space would become the owner's private crawl space. Planner Ananth stated this space exists under many units, and other units had done the same by incorporating that space into their private ownership area. The crawl space area would therefore move from common to private ownership. She explained further that the crawl space was already constructed as part of the footprint and foundation of the building, and does not go into anyone else's crawlspace.

Chair Phillips addressed the request for Unit 7 and the proposal to enclose the deck. Planner Ananth explained that Unit 7 has an existing deck on the upper level that would be enclosed. It would result in a change to the façade, but not a change to the footprint.

Chair Phillips asked if the deck was currently considered common space. Planner Ananth stated that it would become part of the private ownership and could not recall how it was originally designated. She stated that the deck was not shared and has exclusive access from that unit. The plat would enclose the deck and incorporate it into the unit. Chair Phillips did not understand why a plat would be needed for this if it were already private.

Senior City Attorney, Mark Harrington, explained that the plat showed the deck as Limited Common Area. External fixtures for private use are typically included in a third category that is a hybrid between Private area and Common area and is called Limited Common Area. He added that it was not uncommon for people to seek to enclose these decks.

Chair Phillips opened the public hearing. There was no public input. The public hearing was closed.

Commissioner Suesser asked if there were previous conversions of a crawl space and a deck to Private. Planner Ananth confirmed that other units have converted crawl space and a deck through the approval process and a Plat Amendment.

MOTION: Commissioner Kenworthy moved to forward a positive recommendation for City Council consideration on September 1, 2022, for 8200 Royal Street Stag Lodge Unit 50 Condominium Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Ordinance, attached as Exhibit A to the Staff Report as follows:

Findings of Fact:

1. The property is located at 8200 Royal Street #50.
2. The property is in the Residential Development (RD-MPD) District and is also governed by the 12th Amended Deer Valley Master Planned Development.
3. The proposed changes to Unit 50 include the addition of 370 square feet to the lower level to increase the size of the unit to 3,550 square feet of Private Area
4. No other units will be affected by this proposal.
5. The footprint of the structure will not change.
6. All changes proposed are internal and will not alter the exterior appearance of Unit 50.
7. Two parking spaces are required. Unit 50 has an existing attached two-car garage, and no additional parking is required.
8. Stag Lodge is limited to a maximum of 52 units with no Unit Equivalent or unit size restrictions.
9. There are currently 52 Stag Lodge units, and the proposed amendment does not change the number of units.

10. On July 30, 1992, the original Stag Lodge Phase IV condominium plat was recorded as a 6-unit condominium project in the Silver Lake area of Deer Valley after City Council approval on March 5, 1992.
11. Additionally, several additional Stag Lodge plat amendments have been recorded which have created additional private space within the existing footprint of individual Stag Lodge units.
12. The subject property is within the Sensitive Lands Overlay but the Overlay Zone does not apply because the MPD was approved prior to the adoption of the Zone.
13. There is no change to the open space because the footprint of the affected unit will not be changing.
14. The height and setbacks of the existing structure will not change.

Conclusions of Law:

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

Conditions of Approval:

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) year, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration and an extension is granted by the City Council.
3. All conditions of approval of the Stag Lodge Condominium plats as amended, and the Deer Valley MPD as amended, shall continue to apply.
4. A Plat Note shall indicate that the Condominium Plat is subject to Ordinance 2022-Xx.

Commissioner Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall was not present for the vote.

D. 8200 Royal Street Stag Lodge Unit 7 – Condominium Plat Amendment – The Applicant Proposes to Increase the Private Ownership Area by 787 Square Feet. PL-22-05268.

Chair Phillips opened the public hearing. There was no public input. The public hearing was closed.

MOTION: Commissioner Kenworthy moved to forward a positive recommendation for City Council's consideration on September 1, 2022, for 8200 Royal Street Stag Lodge Unit 7 Condominium Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Ordinance, attached as Exhibit A to the Staff Report as follows:

Findings of Fact:

1. The property is located at 8200 Royal Street #7.
2. The property is in the Residential Development (RD-MPD) District and is also governed by the 12th Amended Deer Valley Master Planned Development.
3. The proposed changes to Unit 7 include Enclosing the deck on the Upper Level currently shown as Limited Common which adds 45 square feet; Adding floor space in the area designated as "OPEN" as shown on Page 2 of 6 of the First Amended Stag Lodge Phase 1 which adds 132 square feet; and Adding a Loft Level which will add 610 square feet. The applicant notes that the Loft Level was part of the original construction of Unit 7 but was never incorporated into the original plat of Stag Lodge Phase 1 Unit 7.
4. No other units will be affected by this proposal.
5. The footprint of the structure will not change.
6. All changes proposed are internal and will not alter the exterior appearance of Unit 7 with the exception of the enclosure of the Upper-Level deck.
7. Two parking spaces are required. Unit 7 has an existing attached two-car garage, and no additional parking is required.
8. Stag Lodge is limited to a maximum of 52 units with no unit size restrictions.
9. There are currently 52 Stag Lodge units, and the proposed amendment does not change the number of units.
10. Stag Lodge Phase 1 was originally recorded on March 4, 1985, as Entry No. 321328, and includes 24 units in the Silver Lake area of Deer Valley.

11. Several Stag Lodge plat amendments have been recorded which have created additional private space within the existing footprint of individual Stag Lodge units.
12. The subject property is within the Sensitive Lands Overlay but the Overlay Zone does not apply because the MPD was approved prior to the adoption of the Zone.
13. There is no change to the open space because the footprint of the affected unit will not be changing.
14. The height and setbacks of the existing structure will not change.

Conclusions of Law:

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

Conditions of Approval:

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) year, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration and an extension is granted by the City Council.
3. All conditions of approval of the Stag Lodge Condominium plats as amended, and the Deer Valley MPD as amended, shall continue to apply.
4. A Plat Note shall indicate that the Condominium Plat is subject to Ordinance 2022-Xx.

Commissioner Van Dine seconded the motion.

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

- E. **1115 Aerie Drive - Conditional Use Permit - The Applicant Proposes Modifying an Improved Concrete Pad and Retaining Walls into a Private Recreation Facility in the Estate (E) Zoning District. PL-21-05101.**

City Planner, Browne Sebright, was present with Planner Ananth, the property owner/applicant, Gary Sutton, and applicant's representatives Don Sargent, Jason Bola, and Wayne Budge. Planner Sebright explained that this project is located just outside of Old Town. The applicant requested to modify an existing sports court constructed outside of existing Building Pads and reduce it to bring it outside of the setbacks. He stated that the sports court was built without proper permits and crosses property lines. The applicant proposed to adjust the court accordingly.

Concurrently, the applicant submitted an Administrative CUP ("ACUP") for retaining walls greater than six feet in height, which would be heard in approximately two weeks. He added that the applicant was also working on securing an easement or transfer of property from the neighboring property to the east to accommodate the construction activity that crossed property lines. Those are dependent, in part, on the outcome of the CUP.

Planner Sebright indicated that the original landscaping and grading permit was issued in January 2021. In September 2021, Code Enforcement issued two "stop work" orders. He added that Staff issued letters to the applicant in October 2021 and again in February 2022 outlining the Code compliance issues and the options that would allow them to move forward. He reported that in December 2021, the applicant's representative submitted two applications. One was for the Administrative CUP for retaining walls, and the other for the Private Recreation Facility CUP presently before the Commission. He advised that Staff and the applicant had quite a bit of discussion since the applications were submitted.

Planner Sebright stated that in March 2022, the applicant also applied for a Plat Amendment. The applicant thereafter deferred the Plat Amendment until after the CUP applications were considered. He referenced the images in the Staff Report that depicted pre- and post-development conditions at the site. He also pointed out the area on the site highlighted in green that was disturbed prior to 2020; the more recent disturbance was highlighted in yellow.

Planner Sebright identified the areas that were the subject of the CUP. He explained that the existing concrete pad was approximately the size of a tennis court, as outlined in red on the graphic. He mentioned the putting area directly behind the home. He presented a graphic that depicted the re-sized sports court proposed by the applicant. He commented that the current pad was approximately 50' x 100' whereas the re-sized pad would be approximately 30' x 70' in size. He presented additional photographs showing different perspectives from the concrete pad.

Planner Sebright reported that Staff found that the proposed Private Recreation Facility did not comply with the requirements of the MPD; specifically, the placement of structures outside of a designated Building Pad was inconsistent with the original plat restrictions. He explained that this Subdivision contains ten lots, each of which has a 90' x 90' Building Pad that designated the general location of the home. He offered that no other structures or outbuildings were approved outside of the designated Building Pads on any other lots. There were examples of landscaping, retaining walls, and boulder walls that have been allowed, but no structures.

Based on the history of the project as reviewed by Staff, the Building Pad restriction was original. He added that he could provide additional context surrounding the foresight in the original MPD for additional Limits of Disturbance ("LOD") for landscaping that was never included in the plat, but highlighted that those would be specific to landscaping improvements.

Commissioner Hall joined the meeting.

Planner Sebright next addressed the Estate Zoning District requirements and reported that Staff found that the proposal complied with the requirements of the Zoning District. He presented the CUP criteria and reported that due to several unknowns surrounding pre-development conditions and the intended use of the court and lighting, the proposed CUP did not meet the criteria outlined in the LMC. He referenced the Staff Report identifying which criteria were not met and listed the following: Fencing, Landscaping, and Screening; consistency with development on adjoining lots; physical design and characteristics; noise; lighting; and disturbance to Steep Slopes.

Planner Sebright directed the Commission to a map provided by the applicant that showed the slopes on the site. The slopes highlighted in red were considered by Staff to be Very Steep Slopes. He added that the applicant subsequently updated his Very Steep Slopes map that identified those areas that met the definition of Very Steep Slope as provided in the LMC. He stated that the LMC has very specific restrictions on what cannot be built within 50 feet of Very Steep Slopes.

Planner Sebright stressed that this was a post-development map, as they do not have pre-development information. With respect to the fourth analysis, Planner Sebright reported that the Development Review Committee and Engineering Department acknowledged that the pad was a large, impervious surface on the site, and it was not clear if drainage was adequately mitigated. He stated that Staff received five public comments from neighbors and others, which include questions and concerns regarding lighting and landscaping and the impacts of construction activity. He added that the applicant did not provide a lighting plan associated with this application. Planner Sebright noted that one comment supported the project.

Planner Sebright indicated that Staff requested feedback from the Commission on Staff's recommendation for denial, and recommended the Commission conduct a public hearing and consider denying the application. Alternately, the Commission could require additional information to further evaluate this application.

Wade Budge, the applicant's representative, explained that the property owner acquired the site in October 2020 and invited Mr. Sutton to provide some background information. Mr. Sutton reported that he purchased the home in October 2020 intending to make this a nice place for his family and grandchildren. Approximately one month after they purchased the home, they hired a landscape company to do this project. Based on his discussions with the landscapers, he was under the impression that they had obtained the proper permitting, so he was blindsided.

He first learned that permits had not been pulled for this project when the Stop Work Orders were issued in September 2021. Mr. Sutton stated that no work has been done since that time, with the exception of retaining an engineering firm and Mr. Budge. He reported that over the past ten months, they have done a lot of work with the City to try and mitigate what was built and bring it into compliance.

Mr. Sutton apologized to the neighbors that the concrete pad was sitting there for 10 months. He stated that they would have loved to install the trees and screening to make it look better. He stressed that he wanted to work with the City and had been diligent in those efforts. He has spent significant money on engineering firms and legal fees to try and get this project to a point that would be good for everyone. He wanted the neighbors to appreciate what they have done.

Mr. Budge stated that when they first became involved in October 2021, they learned that the landscaper obtained a permit in February, but it did not cover nearly any of what ended up being constructed. He stated that upon reviewing the plat and carefully analyzing the MPD, they discovered that this was a unique subdivision in a couple of respects. He noted that it is not unique in that this lot borders an open space area.

Mr. Budge explained that the way the subdivision is unique in that it does not have a delineated LOD for the lots. He expressed that they reviewed the minutes from the Planning Commission and City Council meetings and it was clear that at the Planning Commission level Limits of Disturbance was discussed, and was contemplated to be included in what ultimately was presented to the City Council. He stated that by the time City Council approved the plat, it only contained the Building Pad. The property owner must comply with the requirements of the plat and highlighted that the Planning Commission spends a lot of time making sure that the plat notations are correct, all of the plat notes are included and everyone is put on notice of how the property could be used. For this application, Staff spent a lot of time on Limits of Disturbance; however, the applicant's focus was to address each item included in the enforcement letter, and one of the ways to do that was to first address the sports court.

Mr. Budge explained that they initially looked at the tennis court and they determined there was no way, within the confines of the property, setbacks, and other site restrictions, that this site could accommodate a tennis court. He stressed that regardless of what occurred with this application the concrete pad that encroaches into the setback must be removed. He added that they came to the Planning Commission because this sports court is an allowed conditional use provided that the applicant can show appropriate mitigation. He explained that the proposed sports court would be located fully outside of the setbacks. Mr. Budge added that they worked out the issues with the neighbor, who has now issued a letter of support.

Mr. Budge added that one of the nice things about having a sports court on this site is that there would be landscaping that would improve the experience of those driving along Aerie Drive. In addition, the owner would still be able to utilize that space for this particular use, which is allowed as a Conditional Use in this Zoning District. He stressed that they appreciated the comments from the neighbors and viewed them as helpful because they are trying to get this right. By virtue of his discussions with the neighbor on whose property the concrete pad encroached, the owner has shown that he can make it right.

Mr. Budge explained that the sports court would not be used as a pickleball court, and the applicant would accept a condition that it would not be used as such. The owner intended the court to be used for basketball and pop tennis, which is a smaller version of tennis with soft felt balls. With respect to lighting, Mr. Budge stated that there was no intent to install lighting, and offered that there was plenty of light during the summer months. The court would not be used during the snow season. He reiterated that the owner would accept Conditions of Approval stating that neither pickleball nor lighting would be allowed. He felt those would be good Conditions to mitigate reasonably anticipated detrimental impacts and would address the comments made by the neighbors.

With respect to the Limits of Disturbance, Mr. Budge explained that the Building Pad could not be the LOD as they are not the same terms as defined in the applicable Code that applied then and now. He stated that Limits of Disturbance addresses where activities could occur outside of the Building Pad, and there is no such restriction on this plat. He explained that the lot does have

limits on where various improvements could be located and mentioned setbacks and Very Steep Slopes.

Mr. Budge indicated that the plan was to obtain this approval, then obtain approval for the retaining walls. Thereafter, they would work with the Building Department to address some of the other non-conformities, including railings and landscape lighting. Mr. Budge reminded those present that when the Planning Commission addressed this plat in 1994, it specified that Limits of Disturbance were to be a Condition of Approval at the time of final plat approval. Limitations on landscaping were also to be included as part of the final plat.

He explained that when the plat was before the Planning Commission, Commissioner Alison Child asked if the Limits on Landscaping coincided with the Limits of Disturbance, and Staff responded that it was greater than the Limits of Disturbance. Mr. Budge highlighted that while there were discussions about these items being included on the plat, by the time it went before the City Council the focus was instead on the Building Pad.

Mr. Budge emphasized that this history matters because if the Planning Commission wanted to impose that restriction, it must be included on the plat. As the buyer of the property, Mr. Sutton was not obligated to research all of the MPD details, nor would they apply to the site unless included on the plat. In this situation, while there was discussion about concepts that would have potentially been included on the plat, which did not occur. Mr. Budge emphasized that these applications proposed a conforming use within an area that is not prohibited under the Code or by the plat.

Chair Phillips wanted to understand the timing as reflected in the historical minutes presented by Mr. Budge. Mr. Budge explained that in June 1993, the Planning Commission approved the MPD. In August 1993, the Planning Commission forwarded a recommendation to the City Council. He presented the minutes to the Commission for their review.

Commissioner Van Dine noted that there was no record of the sketch or discussion on the landscaping irrigation limitation. Mr. Budge agreed that this was puzzling, and added that during their discussions with Staff on this application, they raised the idea of a Plat Amendment to include what was not included in the final plat. Time was the only reason the applicant did not pursue a Plat Amendment because they want to get this fixed.

Chair Phillips referenced a sentence in the historical minutes that read: "The Limits of Disturbance required by the policy were 15 feet outside of the Building Pad, so there would not be a great deal of disturbance or difficulty re-vegetating." He asked whether this was a description of what was expected to be the Limit of Disturbance.

Mr. Budge stated that the concept in the 1994 Code was that the area of work outside of the Building Pad was ten feet. He read the following from the 1994 Code:

"The Area of Construction Disturbance attributable to the structure as opposed to utilities may not extend beyond ten feet from the Building Pad line."

He felt that the concept was to not go more than ten feet to build the structure of the home, but when it came to Areas of Disturbance, they would rely on the setbacks and the open space. He noted that there was a significant dedication of open space in the final plat.

Commissioner Van Dine referenced the language presented that stated with regards to Limits of Landscaping and Irrigation, the applicant proposed 15,000 square feet.

Chair Phillips asked about the square footage of the lot, excluding the setbacks. Mr. Budge stated they could get that information for the Commission. He added that although the applicant felt that they had a conforming use according to the use table for this zone, he requested input from the Commission on whether there should be a Plat Amendment. He stressed that they felt an obligation to move with haste on this, and expressed that this project got started in the wrong way and the applicant wanted to put it on a path to get it done the right way.

Mr. Budge explained that they analyzed the other ten lots in the neighborhood where the LOD is not called out, and showed the Commission Areas of Disturbance outside of the Building Pads. He pointed out that this Plat had been used in such a way as to not have everything confined within the Building Pad.

He next presented graphics showing that in 2006, there were improvements down the hill, and noted that the owner changed out the sod for a material that does not consume water. He felt it important for the Commission to understand the historical impacts. He presented a graphic depicting the same improvements in 2013, with a little extension of the walls. The current conditions were shown, which were the same conditions seen by the Commission during the site visit. He explained that the wall in the background would be pulled forward towards the sports court to allow for a larger area for buffering and landscaping.

Mr. Budge added that they would agree to a Condition of Approval that the applicant would obtain written approval of the project by the neighboring landowner.

Mr. Budge presented some of the relevant definitions from 1994 and noted that a Building Pad line was different than a Limit of Disturbance. The 2022 definitions were similar, but used different wording and included the same concept along with the introduction of the term Building Envelope; the Limit of Disturbance talks about the area for construction activity.

He presented the permit that was approved in February 2021 and provided to the owner by the landscape contractor. Mr. Budge read some of the notes from the permit, which stated that per the LMC, walls within the front setback could only be four feet in height above final grade and a CUP would be required for six feet or above. Walls within the side and rear setbacks could be six feet in height.

The second note stated that existing trees would remain, and the third note read, "re-plant with natural cogitation on disturbed areas."

Mr. Budge indicated that there was a call out of the Limit of Disturbance for the fence, but it was talking in terms of SWIP, which demonstrated that the term Limit of Disturbance gets used in different ways and different times.

Commissioner Johnson asked about the relevance of the permit. Mr. Budge stated that it was relevant to show not only what the landscape contractor produced in response to the owner's request for permits, but it showed that some of the work that was done, including some of the retaining wall work, was permitted. He acknowledged that some of the walls were taller than six feet, which is why the applicant has a separate application pending. If that application does not

get approved, the owner would have to modify those walls to conform to the requirements for a wall that does not include an Administrative CUP approval.

Commissioner Johnson asked why the retaining wall application would not be heard first. Mr. Budge stated they wanted it first, but were deferential.

Planner Sebright explained that from Staff's perspective, these issues were all connected because if the Private Recreation Facility were not approved, then they would address the configuration of the retaining walls.

Mr. Budge referenced a slide that depicted the Very Steep Slope area prepared by an engineering firm. He pointed to the 40% slope area on the graphic. Commissioner Kenworthy clarified that this had nothing to do with the original slope. Mr. Budge explained that the 1998 Building Permit indicated some retaining walls and improvements outside of the Building Pad, and stated that to figure out the slopes, they looked at the original Building Permit and the topography, some of which were impacted. Mr. Budge commented that if more information was needed on that issue, they could try to conduct topography from 2000.

He summarized that the applicant was seeking approval of the sports court, and they would address the other related issues through the Administrative CUP and reconciliation with the Building Department. He requested the Commission's input on the items raised and stressed that there was urgency so that they could assure the neighbors that they would not have to continue to look at the current conditions at the property.

Chair Phillips invited Staff to respond to any of the issues raised by Mr. Budge. Planner Sebright stated that the applicant noted that there was at least one other structure located outside of a Building Pad. Staff felt that would fall under the definition of Ancillary Structures, so the City did not review it to the same level. He believed that the City had not approved structures beyond boulder walls and retaining walls outside of the Building Pads in this Subdivision.

Commissioner Suesser asked if Staff felt that the lack of the Limit of Disturbance notation in the plat was an oversight. Planner Sebright did not know why the LOD was not included in the plat and added that this was not the sole basis for Staff's recommendation to deny this application. He stated that this was why they recommended to the applicant that it would be appropriate to put those notes on the plat.

There was discussion about Condition of Approval 8, and Staff was asked if there were other Conditions that spoke to the LOD issue. Planner Sebright did not see any other Conditions on the plat approval and clarified that Condition of Approval 8 was for the MPD, not the plat.

Commissioner Johnson referenced Condition of Approval 10 regarding the requirement for storm drainage detention design and security wall prior to plat recordation or issuance of a Building Permit, and asked if that was satisfied. Planner Sebright stated that it was not done on this lot. Chair Phillips noted that was for the overall subdivision drainage.

Commissioner Suesser inquired as to whether LODs were indicated on other properties in this Subdivision. Planner Sebright confirmed that LODs were never indicated on any of the lots in the Subdivision.

Chair Phillips wondered if there were neighboring Subdivisions directly adjacent that could give them an idea of what would have normally been done in that area. Planner Sebright averred that he did not know, but expressed that it was a common requirement for Subdivisions at that time. He noted the unique history of the Subdivision at issue because it was denied, appealed, and remanded.

In response to an inquiry, Planner Sebright advised that the Landscape Permit was attached as Exhibit D to the Staff Report.

Planner Sebright confirmed that the tennis court was poured in the summer of 2021.

Chair Phillips opened the public hearing.

Robin Felton (via Zoom) stated that she owns 1156 Aerie Drive, which is located across the street from the applicant's home. She offered that they are the first house in the other subdivision because the exhibit shown included all the homes prior to hers. She stated that she will be directly impacted by any lights, and acknowledged the statement that there would not be any lights. She added that they would also be directly affected by any noise caused by the sports court. Ms. Felton stressed that she was never notified of this project and added that her home is covered in dust, as is all of her HVAC equipment. Ms. Felton mentioned that the construction equipment cracked the end of her driveway and was aware that the contractor used also another driveway to turn around his construction equipment.

She wondered what her rights are since aesthetically, they look down onto the applicant's property and it will be difficult to screen the sports court from her view. In addition, she questioned how far back it would be and wondered if it would help with snowplowing in the winter since the snow would accumulate. She noted that her driveway ends right across from where the sports court would be located.

Ms. Felton reported that she left note cards in the applicant's mailbox to introduce herself and ask about the project. She was also told that this was a home that would be lived in but has heard that it would be a rental. She, therefore, expressed concerns about how the applicant would know that the restrictions on the sports court would be adhered to by anyone occupying the home. She found it hard to believe that no one was aware that this project was happening, especially since they were installing a commercial-grade playground and giant sports court.

Don Wood stated that he lives at 1503 Aerie Drive. He and his wife watched this project from the beginning and were concerned about when the big cement pad was constructed. He stated that some of his concerns regarding lighting and screening were discussed during this meeting. He opined that the proposal for a smaller sports court was a plus. His remaining concerns were noise and the number of people who might be on-site at any given time and the related issue of parking. He would like the Commission to address those concerns as they decide how to proceed.

Gretchen Hudgens stated that while she does not own a home on Aerie Drive, she has a friend that lives there. She shared a similar experience with the prior contractor and empathized with Mr. Sutton. She also had issues with that contractor regarding permitting and lack of permitting. She was impressed that Mr. Sutton was working to mitigate the issues to the benefit of not only his property but for the neighbors. She felt that some of the primary concerns were addressed and continue to be addressed. Ms. Hudgens was aware that there was construction in multiple different areas in this Subdivision, as there are in multiple areas around town. She wanted to

stress that the applicant wanted to get this done quickly, get the landscaping in place, and return it to a beautiful place as quickly as possible for their enjoyment and the neighbors.

John Strabo reported that he owns 986 Aerie Drive, which is Lot 5 on the plat. He was under the impression that the entire project was permitted and approved by the City. Although he did not hear the entire presentation by Staff, he expressed that his concerns were similar to those previously stated. He mentioned noise, potential water runoff, and the amount of landscaping that would require water. He wanted to understand the process and wondered whether there would be another meeting where he could evaluate what occurred during this meeting.

Chair Phillips stated that they would have to see where things went after this meeting. They would make sure that their discussions would inform him. Chair Phillips advised Mr. Strabo that there was a pending Administrative CUP for the height of the retaining walls, but that would be impacted by the Commission's decision on this application. He also suggested Mr. Strabo reach out to Staff with any questions. Mr. Strabo asked if the retaining walls in place were not built to Code. Chair Phillips stated that was correct, but it was to be determined as part of the process that was moving forward as well. He confirmed that the Commission's discussion at this meeting was solely on the sports court, not the overall landscaping.

Mr. Strabo had concerns about the noise from the sports court and noted that his home is directly below the applicant's property and his deck looks up at the retaining wall. He expressed no doubt that the noise would impact his property.

Commissioner Kenworthy asked Staff if they were comfortable bifurcating this and limiting it to the retaining walls on the ACUP. Planner Sebright answered in the affirmative that the site had been disturbed, so retention was needed to some extent. He confirmed that the ACUP was specific to the retaining walls. He added that drainage would be part of the application presently before the Commission.

Chair Phillips asked if drainage would also pertain to the retaining walls. Planner Ananth explained that the placement and size of the sports court would affect the height of the walls, so they first wanted a determination of what would be allowed in terms of a sports court; thereafter Staff would address the retaining walls. She added that if the walls exceed four feet in height, they would require proper drainage and would be evaluated by Engineering. She described that as a Phase 2 application.

Chair Phillips confirmed his understanding that the engineering and drainage related to the walls would be dealt with as part of the administrative process. Planner Ananth confirmed that to be accurate and added that any drainage required for the sports court would be evaluated as part of the application.

Planner Sebright added that the Engineering Department was actively reviewing that issue, and the applicant submitted a post-construction analysis of the wall. The Engineering Department was satisfied with the documentation provided by the applicant.

Commissioner Kenworthy expressed concern about the Steep Slopes and what would happen when the unpermitted retaining walls go down to four feet and get moved around. He wondered if they would have Steep Slopes in backfilling these walls. He observed that if they move the 8-foot wall and reduce it to 4 feet, it would result in a severe slope. Commissioner Kenworthy

offered that the retaining walls would create more Steep Slopes when they become limited to four feet. Director Milliken stated that Staff would have to evaluate that issue.

Chair Phillips directed the discussion to the wall directly adjacent to the sports court and explained that the proposal was that this wall would be moved out of the setback and into the site and lowered in height. By doing that, it would slope downhill, which was consistent with Commissioner Kenworthy's concerns.

Planner Ananth commented that there was no proposal for the new wall in the front, but it would possibly be a series of walls to meet the Code. Chair Phillips offered that the proposal would likely include a four-foot wall right up against the sports court, and then it would go back the minimum distance and up 2 to 4 feet. He posited that in that area, it would not be one wall, but would step up.

Mr. Budge added that their intent would not be to apply for an ACUP for that portion because they would not have a six-foot wall in that area. Planner Ananth noted that this wall was very important and would be evaluated seriously because the structure of the road depends on that wall.

Commissioner Kenworthy commented that he could not access the link for Exhibit D.

Chair Phillips addressed the Steep Slopes analysis and referenced the map presented by Staff. He understood that the map was based on existing conditions. It was clarified that the locations in red were 40% and up and in yellow was 30 to 40%.

Chair Phillips stated that if things are done properly, they would have had a true done to natural grade. Depending on how this process progresses, he would like to see USGS grade lines. He offered that one way to look at this would be how this project would have been handled if it were handled properly from the beginning. He wondered if the Steep Slopes map could be created with more detail and indicated that it would also be helpful for the ACUP.

Mr. Budge indicated that the interface between the locations in white and the red and yellow areas at the bottom of the site depicted the wall that was approved in February. They would have to do further analysis regarding the Very Steep Slopes in this area. He added that there was not much shown in red in the area of the sports court, but they would confirm that information.

Chair Phillips commented that if additional detail could not be provided, then Google Earth Natural Terrain or Sketch Up Terrain Analysis could be used for the Slope analysis. Planner Sebright added that the State of Utah has a publicly accessible Lidar database.

Commissioner Suesser agreed with Staff's analysis and stated she would support denying the CUP until the applicant worked more with Staff on this application and followed the suggestions made by Staff. She added that the Commission needed more information. Commissioner Van Dine agreed.

Chair Phillips expressed that the Commission appeared to be in support of Staff's recommendation. Mr. Budge stated that the applicant would be happy to provide the additional information and rather than going through the process of handling a denial, they would like to provide that information to the Commission. He suggested a continuance would be preferable, as they also wanted to ensure that the proposal was responsive to everyone's concerns.

Commissioner Hall supported a continuance. Commissioner Suesser wondered why Staff recommended a denial as opposed to a continuance. Planner Sebright stated that more information could be helpful if they understood the original existing grade. Beyond that, the question was whether they could adequately mitigate the loss of vegetation and the issues of drainage. He added that even with additional information, Staff would likely still recommend denial.

Chair Phillips asked if Staff could see any of that area that would be buildable. He commented that because the LOD was not defined, any action by the Commission would define it for the rest of the neighborhood as well.

Planner Sebright confirmed that he did not see Staff getting to the point of suggesting a positive recommendation. Commissioner Kenworthy agreed and saw this project as violating so many Codes on many different levels. He did not see how they could put this project back together one piece at a time.

Mr. Budge remarked that under the applicable 1993 Code, LOD referenced areas where structures would be placed, and that restriction was never placed on the property. He stated that they could make this lot better by designating a LOD around the Building Pad that would sweep around to cover the sports court while hemming in the rest so that what is seen outside would be only landscaping. Currently, landscaping is within the LOD, but they could create a LOD line.

Chair Phillips asked Staff if they would support the process to create the LOD. Planner Sebright stated that was Staff's recommendation several months back. Planner Ananth added that the intent of the MPD was to leave the rest of the site in a very natural state, and that is what the adjacent homeowners have done. She asked whether the Commission felt that they could approve a LOD that was large enough to include a sports court.

Chair Phillips suggested that they forget about the sports court and queried how the owner would move forward in the process if he has to remove the sports court and re-grade the area. While setting the LOD could help the applicant move forward, he noted that it would also guide the rest of the neighborhood. He could see some advantages in proceeding this way.

Planner Sebright reminded those present that Staff recommended the applicant go through the Plat Amendment process to establish the LOD for landscaping in accordance with the MPD's Conditions of Approval. He did not envision Staff getting to the point of including additional structures in the landscaping LOD.

Mr. Budge commented that there could be a LOD for landscaping, and noted that what was intended for LOD was areas for structures. He felt there was a misunderstanding as to whether Building Pad was the same as LOD, and they could never get comfortable with that concept. He stressed that the applicant recognized that it would be better to have certainty, and suggested that the Building Pad could remain as is, and they could add a LOD for structures and a LOD for landscaping.

Commissioner Suesser requested clarification from Mr. Budge as to what category the sports court would fall. Mr. Budge suggested that the three lines could be Building Pad, LOD, and Limit of Landscaping. The sports court would fall within the LOD. Chair Phillips noted for the record that Staff was nodding their heads in response to that comment. Mr. Sutton commented that the walls behind the home were inspected and approved by the City.

Commissioner Kenworthy read from the permit as follows: "All disturbed areas must be re-vegetated, seeded areas must be 80% or more germinated prior to site completion, mulched areas must have 50% or more plants installed; no Significant Vegetation is proposed or approved to be removed; no other scope is covered with this permit other than the retaining walls shown." Commissioner Kenworthy did not see how they could get there and indicated that he would support a motion for denial. Mr. Budge commented that a denial would help in the applicant's claim against the landscaper, but would not help them with what they were trying to get done. Commissioner Kenworthy stated that there were so many violations he could not see anything other than a denial.

Chair Phillips agreed and expressed sympathy for the applicant and what he has gone through, but the Commission could not fix that for him. In response to Mr. Sutton's prior request to address his neighbors, Chair Phillips suggested that he reach out to his neighbors and felt that they could all get along.

Mr. Sutton clarified that his attitude has never been that this had to be his way, and expressed that his demeanor has been humble. He acknowledged that he could probably sue the contractor and put him out of business, but he did not really like that idea and would rather pursue finding a way forward that would help both himself and the neighbors. He stated that he was very flexible on many of these issues, and stated that he truly had no idea that they did not have the proper applications.

Chair Phillips and Commissioner Kenworthy did not doubt Mr. Sutton's statements. Mr. Sutton reiterated that he just wanted to find a path forward and if they did not find that path, it would remain a mistake for the neighbors. He was saddened that the concrete pad had to sit for so long and he wanted to make it right and workable for all parties.

Chair Phillips returned to the permit and offered that the applicant could restore the property to what is on the permit. Mr. Sutton expressed that he was likely willing to take the property back to that point and just forget the sports court. Chair Phillips acknowledged the applicant's willingness to work through this process and noted that he had great representation and did everything he could do to try and get back into a good position.

Commissioner Kenworthy stated that in terms of setting a precedent, it would be difficult to do anything but deny this application.

MOTION: Commissioner Kenworthy moved to DENY the Private Recreation Facility Conditional Use Permit on 1115 Aerie Drive subject to the Findings of Fact and Conclusions of Law as follows:

Findings of Fact

1. The property is located at 1115 Aerie Drive.
2. On December 20, 2021, the applicant representing the property owner of 1115 Aerie Drive submitted two land use applications to the Park City Planning Department: Planning Department
 - a. An Administrative Conditional Use Permit for retaining walls greater than six feet (6') in height from Final Grade.

- b. A Conditional Use Permit for Private Recreation Facilities.
3. The Applicant proposed to modify an existing sports court (a Private Recreation Facility) located outside of the existing Building Pad. The existing sports court was not built with appropriate permits and crosses property lines.
 4. The property is in the Estate (E) Zoning District. The property includes Lot 8 of the Overlook at Oldtown subdivision.
 5. The property fronts Aerie Drive in the front and rear of the Lot.
 6. The primary access to the property is from Aerie Drive, a public street.
 7. The neighborhood is characterized by large single-family homes on lots with steep slopes.
 8. The property is subject to the Nielsen Korthoff Properties MPD, as recorded in the Notice of City Council Action letter dated August 19, 1993.
 9. LMC § 15-2.10-2(B) establishes a Private Recreation Facility as a Conditional Use in the Estate Zoning District.
 - a. Because the CUP Application was submitted on December 20, 2021, the project is not subject to LMC § 15-4-22, Outdoor Pickleball Courts In Residential Areas, which was adopted on April 28, 2022.
 - b. Private Recreation Facility was designated a Conditional Use in the Estate Zoning District prior to the April 28, 2022, LMC Amendments specific to Pickleball Courts.
 10. Prior to the April 28, 2022, LMC Amendments, Private Recreation Facilities were defined by LMC § 15-15-1 as, "Recreation facilities operated on private property and not open to the general public. Including Recreation Facilities typically associated with a homeowner or Condominium association, such as pools, tennis courts, playgrounds, spas, picnic Areas, similar facilities for the Use by Owners and guests".
 11. The Planning Commission determined the Applicant's request for a Private Recreation Facility at 1115 Aerie Drive was not compatible with the surrounding Structures in Use, scale, and circulation, and that reasonable conditions cannot be proposed to mitigate the anticipated detrimental effects because:
 - a. The subject property contains Steep Slopes and Very Steep Slopes, which have been disturbed and terraced to accommodate the Recreation Facility.
 - b. The submitted slope map and the vegetative cover map are reflective of post-development conditions and do not interpolate the prior conditions before the work is done in 2021. Because of this, staff is unable to verify to

what extent Significant Vegetative may have been removed, or in what areas development was placed within 50' of Very Steep Slopes. Based on the post-conditions slope map, it appears that most of the new development is currently within 50' of Very Steep Slopes. Based on satellite imagery from September 2020, prior to the recent development, it appears that some amount of significant vegetation was removed, but exact counts cannot be determined.

- c. The proposed resized sports court adds approximately 2,085 square feet of impervious surfaces to the site. This is not adequately mitigated in the applicant's proposal, as they have only shown new proposed vegetation uphill of the court and proposed to retain a hardscape flagstone patio and artificial turf lawn downhill of the court.
 - d. The amount of disturbed and landscaped areas outside of the Building Pad is not consistent with other properties in the Overlook at Old Town subdivision.
12. The as-built conditions, including the placement of Structures like the sports court outside of the Building Pad, do not appear to comply with the original plat restrictions. In the Notice of City Council Action letter dated August 19, 1993, the City Council approved the Nielsen Korthoff Properties MPD with twelve conditions of approval. Condition of approval 3 states:
- a. The plat shall contain notes regarding stormwater requirements and considerations, wintertime travel restrictions (one-way road), and limits of disturbance as specified at the time of final plat approval.
13. The Land Management Code at the time of subdivision contained the following definitions:
- a. Building Pad Line. The building pad line denotes the area in which the entire new structure must lie. The area of construction disturbance attributable to the structure (as opposed to utility installation) may not extend beyond ten (10) feet from the building pad line.
 - b. Limits of Disturbance. The limits of the disturbance line indicates the area in which construction activity must be contained. Construction disturbance must not extend beyond the limits of disturbance line as indicated on the Planning Department plat of the Master Plan unless the Community Development Director has amended the limit as per sections 10.9(k)3 or 15.4.2(d)3.
 - c. Structure. Anything constructed, the use of which requires a fixed location on or in the ground, or attached to something having a fixed location upon the ground and which imposes an impervious material on or above the ground; definition includes "building". All structures must maintain the minimum setbacks for the district in which they are located, both above and below the ground.

14. The current proposal is to allow for 1115 Aerie Drive (Lot 8) to retain development located outside of the existing 90-foot by 90-foot Building Pads, which accommodates extensive landscaping, regrading, and a concrete sports court that was constructed outside of the scope of the Grading/Landscaping Permit #21-122.
 - a. The current LMC definition of Limits of Disturbance is, "the designated Area in which all Construction Activity must be contained".
 - b. The development that occurred on the site in 2021 was inconsistent with the prior approvals, including the approved MPD and final plat, the latter of which did not include separate Limits of Disturbance for landscaping.
15. The Planning Commission determined that the application does not meet Land Management Code, Section 15-1-10, Conditional Use Review Process, due to a lack of information submitted regarding screening and landscaping, compatibility with surrounding structures, potential noise, lighting, environmentally sensitive lands, steep slopes, and appropriateness of the proposed Structure to the existing topography of the Site. The following Conditional Use Permit review criteria have not been sufficiently addressed:
 - a. LMC §15-1-10(E)(7), Fencing, Screening, and landscaping to separate the Use from adjoining Uses;
 - b. LMC §15-1-10(E)(8), Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;
 - c. LMC §15-1-10(E)(11), physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;
 - d. LMC §15-1-10(E)(12), noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site; and
 - e. LMC §15-1-10(E)(15), within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste, and Park Planning Department City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site.
16. The proposal is not consistent with the General Plan, as it allows for disturbance of Sensitive Lands without adequate mitigation.
 - a. The property is located in the Masonic Hill neighborhood of the General Plan. The property is noted as having slopes that exceed 30 degrees. The General Plan identifies Masonic Hill as a "natural conservation neighborhood", with it also denoted as a "Critical Area for Protection and Conservation". The General Plan stresses that "the aesthetic of the Masonic Hill Neighborhood should be preserved".

- b. These elements are described in Goal 4 of the General Plan, Open Space, and Objective 4D emphasizes minimizing further land disturbance and conservation or remaining undisturbed land areas to development to minimize the effects on neighborhoods.
17. Staff posted a notice to the property and mailed notice to property owners within 300 feet on June 28, 2022. On July 13, 2022, the Planning Commission conducted a public hearing and denied the application.

Conclusions of Law

1. The Conditional Use Permit is not consistent with the Land Management Code, Section 15-1-10, Conditional Use Review Process, and reasonable conditions cannot be proposed to mitigate the anticipated detrimental effects of the proposed Use.
2. The Conditional Use Permit is not compatible with surrounding Structures in Use, scale, mass, and circulation, as required by LMC Section 15-1-10(D), Standards for Review.

Commissioner Suesser seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioner Hall confirmed that she deferred to the other Commissioners and voted in favor of the motion.

- F. Founders Place (Parcel 00-0021-01977 in Wasatch County; 3267 West Deer Hollow Road) - Development Agreement Ratification - On January 12, 2022, the Planning Commission Approved a Modification to a Master Planned Development and Conditional Use Permit for Founders Place, a 354,264-Square-Foot Ski-in Ski-out Village in the Deer Crest Area. The Planning Commission Will Review and May Ratify the Development Agreement Outlining the Requirements of the Development.**

Director Milliken confirmed that the above item would be continued to July 27, 2022.

Chair Phillips opened the public hearing. There were no public comments. The public hearing was closed.

MOTION: Commissioner Van Dine moved to CONTINUE Founders Place Administrative Development Agreement Ratification, to July 27, 2022. Commissioner Johnson seconded the motion.

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

6. ADJOURN

MOTION: Commissioner Van Dine moved to adjourn.

The meeting adjourned at approximately 7:50 p.m.

STAG LODGE CONDOMINIUM AMENDMENTS

Units 7 and 50

Planning Commission July 13, 2022



Proposal

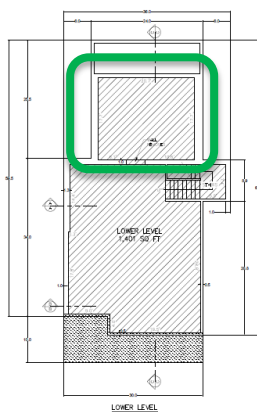
Units 7 and 50 are proposing Condominium Plat Amendments to increase the private ownership of their respective Condominiums.

Stag Lodge Phase 1 was recorded in 1985 and the plat has been amended three times.

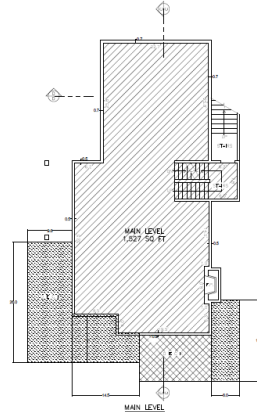
Stag Lodge Phase 4 was recorded in 1992 and has also been amended three times.

Both with similar amendments to increase private area or to combine units.

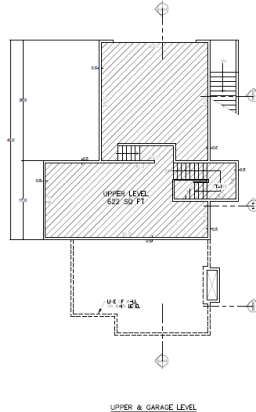




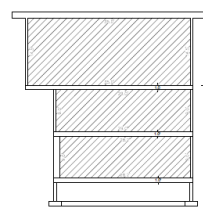
LOWER LEVEL



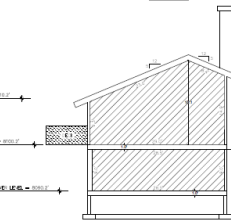
MAIN LEVEL



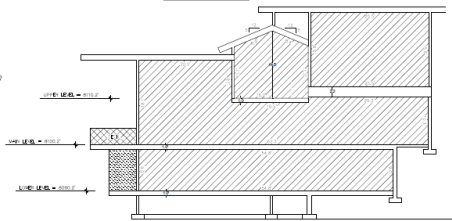
UPPER & GARAGE LEVEL



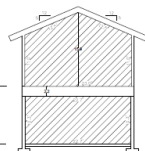
SECTION "A"



SECTION "B"



SECTION "C"



SECTION "D"

SQUARE FOOTAGE TABLE	
LOWER LEVEL	1,407 SQ. FT.
MAIN LEVEL	1,527 SQ. FT.
UPPER & GARAGE LEVEL	450 SQ. FT.
TOTAL	3,384 SQ. FT.

OWNERSHIP DESIGNATIONS	
[Hatched Box]	PRIVATE OWNERSHIP AREA "A"
[Dotted Box]	COMMON OWNERSHIP
[Cross-hatched Box]	UNITED COMMON OWNERSHIP
[Diagonal Lines]	PRIVATE OWNERSHIP AREA "B"

NOTES

- This condominium plan is subject to the conditions of approval in Ordinance 2022-____.
- The address of Unit 50 is 8200 Royal Street East, #50.
- All Conditions of Approval of Stag Lodge Phase IV, recorded July 30, 1992, as Entry No. 88,596, and Stag Lodge Phase II, First Amended, recorded January 22, 2023, as Entry No. 845,383, continue to apply and remain in full force and effect.
- This plan amendment adds 370 square feet to the Lower Level as shown. The amended square footage on page 50 was caused by adding the comparative area of 370 square feet to the existing square footage of 2,180 as shown on Stag Lodge Phase IV First Amended, recorded January 22, 2023, as Entry No. 845,383, as the Office of the Recorder, Summit County, Utah. It is the intent that the private ownership area of the unit will be as constructed.



I, Michael Dinkowicz, do hereby certify that I am a Professional Land Surveyor and that I hold License No. 203284 as provided by the State of Utah, Chapter 66, Utah Code, 1953, as amended. I further certify that the authority of the license(s) I have made a survey of Unit 50, and have recorded and put on record herein, is in accordance with the provisions of the Utah Condominium Act, Chapter 66, Utah Code, as amended and Utah Code Ann. 33A-1-101, and the provisions of the Utah Condominium Act, Chapter 66, Utah Code, as amended and Utah Code Ann. 33A-1-101.

LEGAL DESCRIPTION

Unit No. 50, contained within the First Amended Stag Lodge Condominium Phase IV, a condominium project as the same is identified in the Record of Survey Map recorded on March 4, 1992 in Summit County, as Entry No. 203284, (as said Record of Survey Map may have hereinafter been amended or supplemented), and as the Declaration recorded in Summit County, as Entry No. 237,529 as Book 533, as Page 435 (as said Declaration may have hereinafter been amended or supplemented).

Together with the apartment unit, the apartment interest in said project's common areas as established in said Declaration and allowing for public, domestic, both in the enjoyment of said individual interest and in the enjoyment of the common areas and facilities to which said interest relates.

Together with a 23-foot wide private roadway and non-exclusive public utility easement as set forth on said Record of Survey Map for Stag Lodge Phase II recorded January 22, 1992 as Entry No. 88,596 and the Record of Survey Map for Stag Lodge Phase II recorded March 1, 1992 as Entry No. 327,285.

OWNER'S CONSENT TO RECORD

FROM ALL OF THESE INDENTS that, Jane Andrew Warren and Rose Michelle Warren, Trustees of the Rose and Jane Warren Living Trust dated July 30, 2016, hereby certify that they have caused this plan amendment to be made and hereby consent to the recording of the plan amendment.

I, _____, do hereby consent to the recording of this plan amendment on my behalf.
 My _____ day of _____, 2022.
 Jane Andrew Warren, Trustee

ACKNOWLEDGMENT

I, _____, do hereby consent to the recording of this plan amendment on my behalf.
 My _____ day of _____, 2022.
 Rose Michelle Warren, Trustee

ACKNOWLEDGMENT

I, _____, do hereby consent to the recording of this plan amendment on my behalf.
 My _____ day of _____, 2022.
 Jane Andrew Warren, Trustee

ASSOCIATION CONSENT TO RECORD

FROM ALL OF THESE INDENTS that, the undersigned on behalf of Stag Lodge Owners Association, a Utah nonprofit corporation, having complied with the requirements of Utah Code and the Utah Condominium Act, hereby consent to the recording of this plan amendment.

I, _____, do hereby consent to the recording of this plan amendment on my behalf.
 My _____ day of _____, 2022.
 Stag Lodge Owners Association, a Utah nonprofit corporation

ACKNOWLEDGMENT

I, _____, do hereby consent to the recording of this plan amendment on my behalf.
 My _____ day of _____, 2022.
 Stag Lodge Owners Association, a Utah nonprofit corporation

STAG LODGE PHASE IV THIRD AMENDED AMENDING UNIT 50

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

SHEET 1 OF 1



SUNTHERVILLE BASIN WATER RECLAMATION DISTRICT
 REVIEWED FOR CONFORMANCE TO SUNTHERVILLE BASIN WATER
 RECLAMATION DISTRICT STANDARDS ON THIS
 DAY OF _____, 2022
 BY _____ ENGINEERING DEPARTMENT

PLANNING COMMISSION
 RECOMMENDED BY THE PARK CITY
 PLANNING COMMISSION THIS
 DAY OF _____, 2022
 BY _____ CHAIR

ENGINEER'S CERTIFICATE
 I FIND THIS PLAN TO BE IN
 ACCORDANCE WITH THE INFORMATION ON
 FILE IN MY OFFICE THIS
 DAY OF _____, 2022
 BY _____ PARK CITY ENGINEER

APPROVAL AS TO FORM
 APPROVED AS TO FORM THIS
 DAY OF _____, 2022
 BY _____ PARK CITY ATTORNEY

COUNCIL APPROVAL AND ACCEPTANCE
 APPROVAL AND ACCEPTANCE BY THE PARK CITY
 COUNCIL THIS _____ DAY OF _____, 2022
 BY _____ MAYOR

CERTIFICATE OF ATTEST
 I CERTIFY THIS PLAN WAS
 APPROVED BY PARK CITY
 COUNCIL THIS _____ DAY
 OF _____, 2022
 BY _____ PARK CITY CLERK

**PUBLIC SAFETY
ANSWERING POINT APPROVAL**
 APPROVED THIS _____ DAY
 OF _____, 2022
 BY _____ SUMMIT COUNTY GIS COORDINATOR

RECORDED
 STATE OF UTAH, COUNTY OF SUMMIT, AND FILED
 AT THE REQUEST OF _____
 FILE _____
 DATE _____
 CLERK NO. _____



Analysis

Proposals comply with the Residential Development (RD) Zoning District, the Deer Valley MPD, the Stag Lodge Condominiums COAs, and have been approved by the HOA.

Both units have 2-car garages which meets the parking requirements, and no new spaces are required as a result of the amendments.



Good Cause

The Planning Department finds Good Cause for the proposed Condominium Plat Amendments as the changes do not change the footprint of the buildings and therefore have no impacts on Setbacks or Open Space, will have no negative impacts to the public, do not create any non-conformities, and are consistent with previously approved Condominium Plat Amendments for the Stag Lodge Condominiums.

No public input has been received to date.



Analysis

The Planning Department recommends the Planning Commission hold public hearings; and consider forwarding positive recommendations for City Council's consideration on September 1, 2022, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Ordinances.

