



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
July 12, 2023**

COMMISSIONERS IN ATTENDANCE: Chair Laura Suesser, Christin Van Dine, Henry Sigg, Rick Shand

EX OFFICIO: Rebecca Ward, Assistant Planning Director; Heinrich Dieters, Trails and Open Space Manager; Alexandra Ananth, Senior City Planner; Jack Niedermeyer, City Planner; Jaron Ehlers, City Planner; John Robertson, City Engineer; Jason Glidden, Affordable Housing Manager; Spencer Cawley, City Planner; Michelle Kellogg, City Recorder; Mark Harrington, City Attorney

1. CALL TO ORDER

Chair Laura Suesser called the meeting to order at approximately 5:30 p.m. She announced that the first item on the Agenda was the swearing-in of Planning Commissioners Rick Shand and Christin Van Dine.

City Recorder, Michelle Kellogg stated that Commissioner Shand and Commissioner Van Dine had signed their oath of office. She then administered the oath to each of them.

Chair Suesser confirmed that Commissioner Henry Sigg was previously sworn in as a Commissioner.

Chair Suesser stated that Commissioners John Frontero and Bill Johnson were excused from the meeting. Commissioner Sarah Hall was also excused but might join the meeting at a later time. She announced the meeting would proceed with the understanding that Commissioner Hall would likely not join the meeting.

2. MINUTES APPROVAL

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

MOTION: Commissioner Sigg moved to APPROVE the Planning Commission Meeting Minutes from June 14, 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 June 21, 2023.

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

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

3. PUBLIC COMMUNICATIONS

Bob Theobald spoke to the enforcement of several Land Management Code (“LMC”) violations in connection with the drilling of a well at Commissioner Hall’s home. He sent each Commissioner an e-mail on this and added an additional photograph, which he provided to the Commission in person.

Speaker Theobald explained that the photograph provided depicted the working drawings of the 1992-1993 Army Corps of Engineers Wetlands Designation. He stated that in that illustration, Lot 4 was actually Lot 2 before being renumbered, and it showed areas in yellow that depicted the building and landscape disturbance area. He stated that this illustration was transferred to the plats, and the City had adopted it as the Limits of Disturbance. Anything outside of that would violate the Army Corps of Engineers because it is wetlands, and would violate the LMC provisions on Limits of Disturbance.

Speaker Theobald reported that the City Attorney’s Office had dictated to Planning and Building authorities and Staff that they could not enforce the LMC because it conflicted with and superseded the State Engineer on well-drilling. He advised that he spoke with State Engineer Gary Brimley who stated that was not true, and the City was required to enforce all Codes and regulations. Speaker Theobald stated the problem was that the permittee did not obtain approvals from Planning Staff, the Commission, or anyone else prior to drilling the well. Chair Suesser asked the Mr. Theobald to stick to facts and not assumptions, as she felt he would not know whether the permittee brought this to the attention of the City.

Speaker Theobald stated the well was in violation of restrictions on development outside the platted Limits of Disturbance and Building Envelopes and the permittee did not have a Plat Amendment approved by the City to allow it. In response to an inquiry, he illustrated on the photograph that the location plotted by the well driller was 14.47 feet outside the Limits of Disturbance, which was modified by the previous owner. He clarified that this was based on the location plotted by the well driller, and the speaker had his own engineer plot it against the surveyed Limits of Disturbance prescribed by the Army Corp of Engineers and adopted by the City.

Chair Suesser asked about the location of the well on the lower photograph included on page 6 of his memo. Speaker Theobald stated it was not on there, as that document was from 1992, and the yellow square had been since modified into the configuration shown in the first photograph. He stated that on Lot 2, the north was oriented to the left in the photograph. Speaker Theobald added that the photographs showed the well rig situated to the north of the home. He also expressed that there were restrictions on development in the Sensitive Land Overlay, and he did not believe that Planning Staff recognized and implemented the requirement of a Sensitive Lands analysis for anything in the Willow Ranch Subdivision. He felt Staff did not recognize that this Subdivision was in the Sensitive Land Overlay Zone. He

commented that based on his conversations with a City Inspector, the City Inspector challenged him on the fact and stated it was not within the Sensitive Land Overlay Zone. The City Inspector then looked at a map and agreed.

Speaker Theobald stated that if the property was within the Sensitive Land Overlay, there must be a Sensitive Lands analysis, which was never done. He stressed that a well would likely spill fluids and impact the wetlands designated by the Army Corps of Engineers. It was also likely seeping into McCloud Creek, yet nothing was ever reviewed. He also mentioned the well violated the restrictions on development outside the house building/landscape limits area as designated by the Army Corps of Engineers in delineated jurisdictional wetlands without a 404 permit. Speaker Theobald referenced the image with the yellow squares and stated that was built up with fill because it is located in the middle of wetlands. He stressed that this was an island in the wetlands that needed specific permission from the Army Corps of Engineers. Speaker Theobald claimed the City did not recognize this was a wetlands area, as there was no mapping or institutional memory of Willow Ranch. Many things have occurred in that area that ignored the wetlands issue.

Chair Suesser clarified that Speaker Theobald's issue was that a well was being drilled in the wetlands. He added that they were also planting trees in wetlands, which the Army Corps of Engineers considers "fill," and no permission was granted to Commissioner Hall for any of this activity. He added there was also a plan to excavate water lines. He noted that Commissioner Hall had not submitted a complete Landscape Plan, and posited that was because the Commission did not pay attention during the Landscape Amendments on January 11, 2023, wherein Landscape Plans were not required in certain conditions. He commented that Commissioner Hall participated in that discussion without disclosing she had a well permit and was planting trees when she argued for the changes in the Land Management Code.

Speaker Theobald stressed that he received all documents from the Army Corps of Engineers through a Freedom of Information Act request that showed everything done on that property with permission. The Army Corps of Engineers never permitted the trees and extensive landscaping around the house. He would like additional discussion with the Commission and the City Attorney's Office because the Planning and Building Department should be allowed to enforce the Codes.

There were no further public comments. Chair Suesser closed public communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Assistant Planning Director, Rebecca Ward announced that the Community Meeting for the Bonanza Park Small Area Plan would take place on July 19th at Yarrow Hotel located at 1800 Park Avenue. There would be an open house from 5:30 p.m. to 7:30 p.m. Community members could visit www.bonanzapark.com for more information.

She also reported that the Steep Slopes site visit will take place on July 26 before the Planning Commission Meeting. They will meet at City Hall and then walk along Ontario Avenue before visiting Empire Avenue.

Assistant Director Ward also reported that the City's Land Management Code Consultant commenced work on the Affordable Housing and Transportation Demand Management amendments. Former Planning Commissioner, John Kenworthy serves as one of the Liaisons

and they are looking for someone to take his place to assist with the Affordable Housing component of that project.

Chair Suesser noted that Commissioner Frontero stepped up and took former Commissioner Kenworthy's position as Liaison on Transportation.

Commissioner Van Dine volunteered to serve as Liaison on Affordable Housing with the Land Management Code Consultant.

Commissioner Sigg shared his observations from his recent trip to Toronto with the Bonanza District Advisory Team. He reported that they were able to tour small planned areas of less than five acres and brainstorm some ideas for Bonanza Park. The salient takeaways were the areas that need the population to have sustainability, activity, and activation. While he noted that Toronto and Park City were not comparable in terms of apples to apples, housing in close proximity or on-site helped to drive the success of a site. Most of the places they viewed were car-free or parking free and functioned with transportation initiatives, transportation stops, and transition zones.

Commissioner Sigg noted that another good takeaway of the visit was the use of public-private partnerships. He noted that Toronto was very active in working with the private sector to help activate and incentivize incubator zones and business opportunity zones. Many of these were based on smaller-scale spaces and a gross rent formula. Diversity is thriving in Toronto in some of these zones and he mentioned a diverse unit mix. He observed that a single-use occupant was not the way to go, and a diverse mix of food vendors, businesses, exhibits, start-ups, transit areas, and gathering areas helped contribute to the success of these types of areas. He added that residential uses also contributed, as it served the population component for these zones.

Commissioner Van Dine mentioned HOPA and asked if it would have close enough proximity. Commissioner Sigg agreed and stated that having residential mixed in with these uses was good to have at the end of the day. Commissioner Sigg noted that they saw some gentrification with existing buildings, but there were also projects with market and work force housing, and commercial. He stressed that unit mix was critical and he felt it presented an opportunity to have locally driven incubator businesses. He did not see many chain stores, and it seemed more focused on building up the local socioeconomic perspective in the community. He concluded by stating it was a very informative trip.

Chair Suesser expressed that she was always puzzled as to why Prospector, which has a good mix of residential and retail businesses, and good public transit that is well-used, seemed to stagnate from time to time.

Commissioner Sigg stated that most of the sites they visited did not have a lineal aspect to them, which made for interesting exploration and use of the grid format. He surmised that in Prospector, presence had been a difficult challenge; whereas what they saw in Toronto had a real notion of presence. He used the example of a pop-up by Audi to show cars that would be front and center and serve as a revenue producer. He added that they did it with a seatbelt initiative, and was a situation where everyone wins.

Commissioner Sigg also commented that Toronto does a sun protection initiative with a non-profit that promoted skin protection, and they had a great art exhibit of umbrellas covering an

area. The non-profit aspect also hit home and most of the partnerships were run with non-profits, who were there to build community.

Assistant Director Ward reiterated that the Bonanza Park community meeting would be held on July 19th from 5:30 – 7:30 p.m. at The Yarrow.

A. Swearing in of Planning Commissioners Rick Shand and Christin Van Dine.

Recorder Kellogg administered the oath, as previously indicated. Chair Suesser welcomed new Planning Commissioner Rick Shand and Commissioner Van Dine back for another term. Their thoughts were with Commissioner Johnson and they hoped to have him back soon.

5. CONTINUATIONS

A. Land Management Code Amendments - Lot Combinations in Historic Residential Zoning Districts.

Chair Suesser understood that the Planning Department decided to continue this item to July 26, 2023, if possible. Assistant Director Ward stated that due to the Pending Ordinance, they had until November 10th to work through the amendments. Staff requested a continuance of this item to July 26th so they could move the other applications on tonight's agenda forward.

Chair Suesser opened the public hearing.

William O'Connell gave his address as 1307 Norfolk Avenue and sent in a letter dated May 10th specific to the project PL-22-05357. Chair Suesser noted that they would be getting to that item later in the meeting, and would welcome his comments at that time.

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

MOTION: Commissioner Van Dine moved to CONTINUE Land Management Code Amendments – Lot Combinations in Historic Districts, and the public hearing thereon – to July 26, 2023. Commissioner Sigg seconded the motion.

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

6. WORK SESSION

A. Wildfire Risk Assessment.

Trails and Open Space Manager, Heinrich Dieters introduced David Telian, Owner of Alpine Forestry, which is the City's Consultant. He also introduced Katharine Napier-Janz and Brad Washa. Manager Dieters explained that he would provide the Planning Commission with some information on a report associated with the City's wildfire risk, with an emphasis on how this information might help the Commission administer the LMC and the Wildland Urban Interface Code ("WUI"). He noted that they had been working on a yearlong study, and conducted several open houses, with the most recent having taken place on June 27, 2023. They also had a vibrant stakeholder group. The plan was on the Engage Park City page under the Community Wildfire Risk Assessment ("CWRA"), and since June 27th, they asked people to provide comments, however, they had not received any.

Manager Dieters explained that the plan is important because Park City is entirely within the WUI area, and the map presented showed the growth and amount of development that had taken place. Since residents choose to live in the WUI, which is an environment where structures and development exist in the natural environment, they are more at risk for some of the different aspects. Prior studies showed that wildfire was the most likely natural catastrophe that could happen to Park City. Additionally, the likelihood of a human-caused wildfire was also very high. While they have a lot of things stacked against them, they could take additional steps to mitigate some of that risk.

Manager Dieters stated that the Plan created a baseline in which they look at Resource Identification, and use that as a planning and prioritization tool. Prioritization was specific as to the City-owned property and how they could prioritize projects and mitigations, but the Plan also sets forth how residents could prioritize and mitigate. He remarked that many members of the community just do not know what to do. One of the other goals was outreach. He mentioned that an important aspect associated with grant funding was the Community Wildfire Preparedness Plan, adopted several years ago. This had helped in their requests for large grants in that it shows that the City is prepared, and knows where the projects and prioritization lies.

Manager Dieters indicated that the community survey revealed that many were supportive and understood that this was something that should be taken seriously. Many felt that they were responsible as a landowner, and many expressed concerns about natural disasters and evacuation aspects. He stressed there were a lot of opportunities for significant outreach.

Mr. Telian explained that the project area was designed to look at the entirety of the City limits. They added the Bonanza Flat parcel to the south in Wasatch County and drew a one-mile buffer to represent the fact that Park City was at risk from different directions and that fire does not know boundaries or zip codes. He added that they used a nationally recognized framework, the Cohesive Wildland Fire Management Strategy. He explained it was supported by three main tenets: establishing resilient landscapes, creating fire adaptive communities, and preparing for safe and effective wildfire response. Over the course of the project, they looked at all three of those aspects, but hyper-focused on the landscapes, because the culmination of much of this planning effort targeted prioritizing what could be done on City-owned lands.

Mr. Telian highlighted that this was a growing issue in the West among many mountain communities of different sizes and challenges. Many of the other mountain communities have published Community Wildfire Preparedness Plans ("CWPP"), whereas the risk assessment goes further. He added that the two plans support each other, but he commended the City for going down the risk assessment path because it was significantly more detailed and could be a helpful building block. He noted that the graphic presented to the Commission showed wildfire risk in a simplified form. Some of the main factors they look at were the likelihood of fire, the intensity, and how big and fast a wildfire might become. He stressed that the susceptibility piece was what really mattered to them. This involved assessing what was at stake and what was in the path of these fires.

Mr. Telian stated they could only affect so much in terms of these factors, and spent a lot of time on the susceptibility piece of this Plan to identify what was at risk. He mentioned the process they used came from Federal Land Management Agencies and mentioned the term QWRA, which was the Quantitative Wildfire Risk Assessment. He explained that the process focused

heavily on highly identified values resources and assets. He noted some of the items identified by the community by subject matter experts and the stakeholder group and explained these were valuable to the City, whether they exist naturally or whether they were added to the area.

Mr. Telian referenced a map that hyper-focused on the importance of drinking water that comes out of the mountains and added that the Wasatch Back, definitely fell in the category of providing high-quality drinking water downstream to millions of people. This highlighted the importance of not only preventing catastrophic wildfires but also the response to these fires. He clarified a graphic that showed a product from the United States Forest Service called Forest to Faucet, which is a modeling product that looks at the amount of water that comes from certain areas. The colors in the graph represented the importance based on how many people were fed by the water source.

In response to an inquiry, he explained that the areas depicted in green were in the higher range of importance. Manager Dieters added that there was a big drive in Summit County to address this because there were 6 or 7 watersheds that start in Summit County. Therefore, it was very important for Summit County to address this all the way to the north slope of the Uintas.

Mr. Telian stated that one of the aspects that made this project so important was that Park City was based upon the tourism economy in the winter, as well as the summer recreation industry. They had seen throughout the West significant effects on other towns whose economies were similar. He highlighted the 2021 Caldor fire in the Sierra Nevada Mountains that affected South Lake Tahoe and burned over Sierra-At-Tahoe Ski Resort and nearly reached the borders of Heavenly Valley Ski Resort. He noted that the Caldor fire had significant post-fire impacts, which drove home the importance of prevention and mitigation efforts to protect what they have in Park City.

In terms of the High-Value Resources and Assets ("HVRA") process, Mr. Telian advised that the community created the list as part of the stakeholder group and three workshops they conducted. They took three aspects known to be heavily affected pre- and post-fire. The first was assessing avalanche terrain and the effects that mitigation and/or fires could have on Steep Slopes.

The second aspect was high levels of sediment entering the watersheds post-fire when a high-intensity burn destroys the forest canopy. He noted this opens up the soil to runoff from the mountainsides. They also looked at the health of the local streams, as those were important in helping manage how fires move. He reiterated the importance of drinking water.

Mr. Telian provided an example of avalanche terrain mapping and explained that they looked at zones steep enough to slide and whether they were active or dormant, and whether either forest cover or ground cover would protect these zones. He reiterated that this mattered pre-fire, in that they could conduct prevention efforts to minimize the risk of a high-intensity fire. It also mattered as a planning tool post-fire where the data sets could direct different mitigation strategies to limit avalanche exposure.

With regard to sediment delivery, Mr. Telian presented a graphic that showed some recent fires and challenges experienced post-fire. He noted that streams were extremely important to the forest ecosystem, which was why many of the assessments focus on them. Wetlands areas and streams could also act as firebreaks and provide opportunities to control fires. He

mentioned that the health of a stream determined how it would manage sediment post-fire, and some actions could be taken post-fire, many of which the City had already undertaken on some local streams. From a planning perspective, monitoring and maintaining those areas could keep these streams healthy.

He mentioned that they also created different simulations of wildfires. Some of the things they looked at on a landscape scale included topography, vegetation structures and composition, and predominant weather patterns. This information was included in a map presented to the Commission, and he explained they could then model hundreds of different fire scenarios and build a risk map off of that information. He identified the areas shown in red, which reflect the highest hazard. He highlighted the conifer forests, which were known to spread fire rapidly and be much harder to control. Steeper terrain was also known to build fire intensity and minimize control.

Commissioner Van Dine mentioned that insurance companies could now use these reports to deny insurance coverage to those in Park City. Mr. Telian explained that the way the insurance companies respond to this issue was changing, but currently, everyone was using different processes to make decisions.

Manager Dieters explained that as part of this process, a representative from a Home Insurance Group, and others were part of the stakeholder group. He advised that insurance carriers use their own programs and their own mapping. He stressed that the mitigation work being done was provided to the insurance companies for inclusion into their mapping system. He was told that if the City could get the insurance companies to accept the City's data on mitigation, that might help some of the local homeowners.

There was discussion about the color-coding on the simulation map. Red was the highest risk, which took into account fuel and predominant weather patterns (wind), as well as elevation and topography. Commissioner Shand understood from the map that most of the higher populated areas had the lowest risk. Mr. Telian agreed and stated that was mostly in the center of the project area in the gray shading, which reflected the Park City urban core. He noted there was no model that looked at structure-to-structure ignition, and stated that this project focused primarily on landscapes rather than urban areas. Mr. Telian added that outside the urban core, where there was mostly pavement and landscaped yards, was the true wildland-urban interface.

Manager Dieters commented that while this map tells a story, they know that 89% of fires were human-caused. He stated that this map showed the areas where if a fire were to start it would cause grave concerns because it would be very likely to take off. From a natural aspect, if something should happen in one of these areas, they would be in trouble.

Mr. Telian agreed and stated that much of the mapping looked at the higher end of intensity to guide planning efforts. They create their models off hot, dry windy days in August. He explained that the map just reviewed was titled Integrated Hazard, looked at likelihood and intensity, and highlighted the high-hazard areas.

Mr. Telian showed another map where they stacked the highly valued resources and assets on top of the Integrated Hazard Map, gave each HVRA data set to look at its spatial extent, and also gave it a response-to-fire point. He provided two examples, one of which was an aspen forest that benefits from fire. Something like public utilities would only be threatened by fire. He noted that it was easy to focus on the bad effects of fire, but he explained that this was a fire-

adaptive and fire-dependent ecosystem, and this project recognized how important it was for some of the natural resources. He explained that the darker purple on the map reflected higher priority areas, which meant that there are values in the area, but it also has potential high-burn intensity. They looked at 70 of the City-owned parcels and gave them scores that translated into a priority ranking. This data was presented to the Commission.

Manager Dieters explained that this map was useful for him as a Project Manager looking at grants. He noted they focused on Treasure Hill last year, and stated they were also doing work on Daly Avenue and Prospect Ridge. Each might be slightly different in terms of the HVRA, but if they add more parcels into this analysis the priority designation might change as well. He stressed that this information provided a road map for the City to go through its budgeting process or grant process and allocate resources to future projects.

Manager Dieters next addressed the WUI Code, last adopted in 2020. There were different steps that could be used within the WUI Code, and they could use the mapping system to determine areas that might need stronger WUI principles. In terms of emergency management, they spoke a lot about evacuation routes, and the more information they had to provide to the community was very important.

Manager Dieters noted that in terms of the stakeholders, Wasatch County was involved in this project, as were the Fire District and other entities. For the residents, there is information on the Trails and Open Space page, but he mentioned residents could also access the mapping provided in the report. He stated that residents should be able to know how to contact the Building Department to provide home assessments and guide them in terms of home hardening or defensible space. He added that they have had a lot of information about Covenants, Conditions, and Restrictions ("CC&Rs"), and many Homeowners Associations ("HOAs") reach out and ask for language that they could implement for the community and management of their land.

Manager Dieters referenced Commissioner Van Dine's comment about home insurance and stated that it was something that would be of interest to the community and all of the residents because they have seen people drop from their insurance and seen rates go through the roof.

Chair Suesser mentioned the resident's concerns voiced about the burning on Treasure Hill and a study to assess the pollutants caused by the burn. Manager Dieters did not believe there would be a study, but the Mayor was interested in having a Work Session later this fall, and he felt it would be an important discussion to have with the public.

Manager Dieters added that everything they were doing was associated with a public health crisis, and there were tools at their disposal to try and mitigate this, and they want to have a discussion with the public to make sure they were comfortable with the tools. He added they also wanted the opportunity to explain to the public why it would be wise to choose certain tools at certain times. He stressed that Park City had a lot of open space land, and they should be proud of that; however, it requires management. If they choose to live there and recreate in this land, they must think about it more because the climate is changing, and they were still in a significant drought in Summit County.

Chair Suesser mentioned the burn piles on Treasure Hill and asked if that project was paid for by a grant. Manager Dieters stated that work was paid for as part of the Treasure Hill Bond,

and added that some of the bond money was set aside to do a conservation easement, recreational improvements, and maintenance associated with that property.

Chair Suesser noted that the burning was done while there was still snow on the ground, and wondered if that was typical. She understood the Mayor stopped the burning based on the concerns raised by the public, but Chair Suesser asked if those burn piles would be burned now or whether they would wait until there was cooler weather and snow on the ground.

Manager Dieters recalled there were concerns expressed about notification, and the community expressed concerns that would be the subject of the Work Session he referenced earlier. He advised that Mr. Telian could explain the permitting process and the conditions under which that burning was to be done. He added that they created a burn pile fact sheet, which was included on the website. He encouraged everyone to review that

Mr. Telian stated there was no precedent to integrate studies regarding potential pollution caused by burning. He noted that they needed to ask what challenge they were trying to solve, and noted they were trying to manage the land, manage the fuels and reduce fire risk. He mentioned that burns typically were done in fall, winter, and spring. They need moist conditions, but not overly wet. He explained they go through a stringent burn plan process where they identify the targets, the conditions, those involved, and notifications to the public. They also submit paperwork to the County and the State for approval.

Mr. Telian stated they also track the emissions that come off these burns, mostly for concentrations of PM 2.5, which is the particulate matter in smoke known to cause human harm. He pointed out the trade-off of burning in a controlled environment, which produces a significantly less amount of particulate matter concentrates than a wildfire that would have a much higher concentration and duration. Burning under controlled conditions was a widely accepted tool for land managers.

Commissioner Sigg referenced the establishment of the risk factors and assessment of areas and asked whether support resources such as helicopters were taken into account. Manager Dieters stated that was part of the report.

Chair Suesser announced that they would move to the Regular Agenda. She noted that Commissioner Sigg would recuse himself from Agenda Item 7.C. – 958 Woodside Avenue – Plat Amendment – and given the absence of some of the Commissioners, the Planning Commission would not have a quorum for that item. As a result, the item would be continued, and any member of the public present to comment on that Agenda Item could make a comment during the public hearing; however, it would be continued.

7. REGULAR AGENDA

A. 2411 Country Lane and 28 Payday Drive – Plat Amendment – The Applicant Proposes to Relocate the Lot Line between Lot 3 and Lot 4 of the Thaynes Creek Ranch Estates Subdivision - Phase 1. PL-23-05067.

City Planner, Jack Niedermeyer reported that the owner, Tyler Walton, was present. Planner Niedermeyer advised that the applicant proposed a Plat Amendment that would move the Lot line between Lot 3 (2411 Country Lane) and Lot 4 (28 Payday Drive). These Lots are located in

the Thaynes Ranch Estates Subdivision, Phase 1. The Plat Amendment would move the Lot line 23 feet to the west.

Since the publication of tonight's Packet, Planner Niedermeyer advised that the applicant modified the proposed Plat, specifically Plat Note 18 which now states: "The roof of any building on Lot 4A within 75 feet of the south property line is limited to an imaginary line that is a height of 12 feet from the existing ground at the east side Setback and sloping up to a height of 28 feet from the existing ground at the west side Setback. Standard City building height restrictions apply north of this 75-foot height restricted area." He explained that per the applicant's representative, the purpose of this Plat Note was to prevent development on Lot 4 that might impede views looking west from Lot 3.

Planner Niedermeyer stated that both Lots were under the same ownership. The proposal would increase the size of Lot 3 from .62 acres to .71 acres and would decrease the size of Lot 4 from .51 acres to .42 acres. There would be no change in the total acreage shared between the two Lots. He explained that the property recorded as Thaynes Creek Ranch Estates Subdivision Phase 1 was annexed into Park City as part of the Richards and Park City Municipal Corporation Annexation. The Annexation Plat and the attached Annexation Agreement were approved by the City Council on January 31, 2013.

Planner Niedermeyer continued by stating that Section 4 of Ordinance No.13-06 established the Richards parcel in the current location of the Phase 1 Plat as part of the Single-Family Zoning District. He indicated that on October 3, 2013, the City Council approved the Thaynes Creek Ranch Subdivision Phase 1 Plat. Phase 1 provided approval for four of the seven Single-Family Lots, which received preliminary approval as part of the Richards and Park City Municipal Corporation Annexation. The remaining Single-Family Lots and a single common Lot were approved as part of Phase 2.

Planner Niedermeyer presented a graphic to the Commission showing the location of Lots 3 and 4 as shown on the preliminary Plat. He stated that the proposed Plat Amendment complied with the Single-Family Zoning District requirements outlined in LMC Chapter 15-2.11. The proposal also complied with the Sensitive Land Overlay requirements outlined in LMC Chapter 15-2.21, and the proposal demonstrated compliance with Ordinance No. 13-38, which approved the Thaynes Creek Ranch Estate Subdivision Phase 1 Plat. He commented that the minimum Front Setback for Single-Family Dwellings in the Single-Family Zoning District was 20 feet. The minimum Front Setback for front-facing garages was 25 feet. He explained that because Lot 3 was a corner Lot, it had two Front Setbacks. One of the Setbacks was measured from Payday Drive to the south, and the other was measured from Country Lane to the east. He represented that the existing garage was measured at 24 ½ feet from the property line abutting Payday Drive, and was therefore considered Existing Non-Compliant. Staff recommended Condition of Approval 5 that "No further expansion of the existing non-conforming garage measured at 24.5 feet from the property line abutting Payday Drive, is permitted."

Planner Niedermeyer stated that Lot 4 was currently vacant, but would be required to comply with Single-Family Zoning requirements should it be developed in the future. He commented that the maximum density for subdivisions in the Single-Family Zoning District was three units per acre. The proposal complied with this requirement as it would not increase the density or create additional opportunities for units within the Subdivision. He reiterated that the total shared acreage between the two Lots would remain unchanged.

With regard to the Rear Setback, Planner Niedermeyer stated that for this corner Lot, it would be measured from the property line behind the garage. The current Single-Family Dwelling on Lot 3 was set back 18.9 feet from the rear Lot line, and the proposed shift would increase this distance to 41.9 feet. He explained that the Side Setback was measured from the northern property line, and the Single-Family Dwelling on Lot 3 was 45 feet from that Lot line.

Planner Niedermeyer stated that this proposal complied with the Sensitive Land Overlay requirements outlined in LMC Chapter 15-2.21. The proposal also demonstrated compliance with Ordinance No. 13-38 which approved the Phase 1 Plat. He recited Plat Note 10 as follows: "Lots 3 and 4 are restricted to a Maximum Building Footprint of 3,900 square feet for the house and garage. The Floor Area of all second stories shall be restricted to 60% of the first story footprint."

Planner Niedermeyer advised that the current Building Footprint for the Single-Family Dwelling on Lot 3 was 3,990 square feet, thereby exceeding the requirement by 90 square feet. Staff recommended Condition of Approval 7, which states: "No further expansion of the existing non-conforming Building Footprint, measured at 3,990 square-feet is permitted." He noted that the proposal would maintain the ability for Lot 4 to have a Building Footprint of 3,900 square feet, even though the Lot was being reduced in size. He recited Plat Note 15 as follows: "Each Lot of record is allowed a Maximum Driveway Width of 15 feet, measured at the property line with Payday Drive or Country Lane." He advised that Lot 3 was accessed from Country Lane, and the driveway at that point was measured at a width of 21.8 feet.

Staff, therefore, recommended Condition of Approval 8 as follows: "No further expansion of the existing non-conforming driveway measured at 21.8' abutting Country Lane is permitted."

Planner Niedermeyer stated that there was good cause for this Plat Amendment, as it would enable the owner to expand the size of Lot 3 while allowing for Lot 4 to remain a developable Lot. It also would not further subdivide or increase the density of the existing Thaynes Creek Ranch Estates Subdivision Phase 1. The proposal would also not create or expand upon any existing Non-Conformities.

Additionally, Planner Niedermeyer indicated that the applicant intended to remove the 10-foot wide irrigation water conveyance easement that borders the common property line of Lots 3 and 4. The Title Report established water rights for irrigation use for both Lots, and he relayed that the applicant believed the irrigation easements were platted in conjunction with the established water rights. He explained that the applicant was the beneficiary of the irrigation easement, and could remove the easement from the amended Plat without additional approval.

Planner Niedermeyer stated that the Development Review Committee reviewed the Plat Amendment application, and per the Water Department, currently, the one-meter vault has both the meter for the existing home, as well as the meter setter for the vacant lot. Moving the lot line 23 feet would put the meter for the vacant lot off the property, which would result in the homeowner running a waterline on private property.

He noted that the Water Department presented two solutions:

- Provide easements for the water line to the vacant Lot; or

- Vacate the future connection and the existing water meter and run a new line in the street from the water main.

Planner Niedermeyer stated the applicant selected the first solution, and proposed a new 10-foot-wide private water easement for the benefit of Lot 4A. He noted that all feedback from the Development Review Committee had been addressed. Planner Niedermeyer advised that Staff recommended the Planning Commission review the proposed Plat Amendment, conduct a public hearing, and consider forwarding a positive recommendation for City Council's consideration on August 22, 2023.

Commissioner Shand understood that this application proposed to move the property line 23 feet, as well as the easement for the water line. Planner Niedermeyer explained that the current easement on the current property line was a 10-foot wide irrigation easement that would be vacated. Commissioner Shand asked how Lot 4 would get water. It was explained by Applicant Walton that a new easement would be established to allow the metered connection to cross from Lot 3 to Lot 4. This new easement would not be the same as the 10-foot easement between the two properties for irrigation water.

Applicant Walton stated that the 10-foot easement was likely established with good intentions, but had no current use or intended use by any of the property owners. The applicant intended to vacate the 10-foot easement and create a new easement where the City water connects to Lot 3 today in order to provide water to Lot 4 from that existing connection.

Commissioner Sigg asked if there were CC&Rs that would regulate Lot line adjustments in this neighborhood. Applicant Walton advised there is an HOA, but it did not regulate any Lot line adjustments. He added that the HOA regulated things like Setbacks. He confirmed that this proposal had been presented to the HOA, and was approved. With respect to the easement, Commissioner Sigg asked if there were any maintenance obligations. Applicant Walton stated there were none, and further explained that there were potentially 3 or 4 easements and wanted to be clear on which easement was being referenced by Commissioner Sigg.

Commissioner Sigg understood there was an irrigation easement, and a proposed easement to bring water to the site. Applicant Walton referenced a graphic showing the Subdivision as a whole and explained that the water shares used for irrigation purposes only source from a pond off Iron Canyon Road, located in Lot 5. He added that an easement was recorded today to bring the water up to an existing 5-foot easement that runs east/west.

Applicant Walton also advised that there was a mountain field easement for utilities that runs all the way to Payday Drive. He added that there was confusion when the easements were created, and it was assumed that easements could be used for irrigation water. Based on their research, he stated they discovered there was no irrigation right to the easement to come from the pond. Therefore, that was re-established today. He showed the easement between the two properties that would be vacated because there was no need for it. He also pointed out a small easement between the two properties for potable water.

Applicant Walton confirmed there were no maintenance requirements for these easements. Commissioner Sigg asked if they had determined the water table. Applicant Walton stated that he had lived in the home on Lot 3 for eight years. They had to do the required testing when the home was built, and he reported that it was dry. He commented that Lots 1 and 2 had a

downslope and an underground stream from the golf course, which necessitated two pumps running 24/7.

Applicant Walton reported that Lot 3 appeared to be on high ground and there had never been a need to run a pump. When the home was constructed, the engineers advised there was no water to be found. With respect to Lot 4, they never dug into it because it was horse pasture, but he imagined that it would also be dry because it was at an identical elevation. He added that the stream flow came in to feed the ponds as shown on the graphic. It seemed consistent and logical that the water was going around Lots 3 and 4.

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

Marshall King from Alliance Engineering wanted to make sure that it was clear that the Plat Note that was added was added by the owner. He had looked at minutes from past meetings, and there was a Note on the Plat that they had no idea how it came to be. He stated that the Plat Note added by the owner was not something that would typically be included on a plat, and reiterated that the owner requested it be included.

Chair Suesser observed that the width of the driveway at 21.8 feet was non-compliant, and wanted to confirm that the Commissioners had no interest in requiring a change and were comfortable with the Condition of Approval prohibiting expansion.

Commissioner Van Dine understood the Planning Commission could not force the owner to change the driveway; rather the Commission could require that the owner bring it back into compliance if they requested any changes. Senior City Attorney, Mark Harrington stated that it was not legally pre-existing. Applicant Walton commented that Country Lane is a private lane, therefore it did not have standard street widths and was only 20 feet wide, and would require a sharp turn-in. When the concrete team was installing the driveway, they opened a small neck to allow a vehicle to turn in, but the driveway quickly goes down to 14.5 feet. He added that the entrance from about 4 feet in was down to 15 feet, and then the driveway was 14.5 feet for the remaining 40 or so feet.

At the time, Applicant Walton was unaware that this was non-compliant. He added that he did not realize they had a Side Setback issue with the garage until it was presented to him during this application. He stated the house was not square on the property, and stated that he measured the front of the garage at 27 feet; however, because of the angle of the house, it went from 27 feet down to 24.5 feet. He stressed that the entire garage was not 24.5 feet; rather approximately 4 feet of the garage is within the Side Setback. Commissioner Van Dine stated she was agreeable with the Conditions as written.

Engineer King commented that sometimes the actual house distance is the actual foundation, and if there was any rock, that might add to the measurement. Any trim around the house could also be the reason for it being slightly larger.

In response to Chair Suesser's inquiry, Applicant Walton stated there was no driveway off of Payday Drive, and access to the home on Lot 3 was exclusively off Country Lane. Lot 4 would not have access off Country Lane, and would only be accessed off Payday Drive. He commented that any driveway into Lot 4 would fit the neighborhood nicely. He added that this Plat Amendment was requested because they constructed the house back a little too deep. He

was focused on a play area for his children, and his wife did not express that she wanted a garden space. Now, his children are grown and his wife wanted an area for a garden. In response to an inquiry, Planner Niedermeyer confirmed that a full Sensitive Land Overlay Analysis was done.

MOTION: Commissioner Sigg moved to forward a positive recommendation for City Council's consideration on August 22, 2023, for 2411 Country Lane and 28 Payday Drive – Plat Amendment, based on the Findings of Fact, Conclusions of Law and Conditions of Approval in the Draft Ordinance as amended, as follows:

Findings of Fact

1. The properties are located at 2411 Country Lane and 28 Payday Drive.
2. The Lots are within the Single-Family Zoning District.
3. The subject properties are Lots 3A and 4A of the Thaynes Creek Ranch Estates Subdivision – Phase 1, approved by the City Council in 2013.
4. The property recorded as Thaynes Creek Ranch Estates Subdivision – Phase 1 was annexed into Park City as part of the Richards/PCMC Annexation.
5. On October 3, 2013, the City Council approved the Thaynes Creek Ranch Estates Subdivision – Phase 1 plat.
6. The Thaynes Creek Ranch Estates Subdivision - Phase 1 plat, provides final approval for four of the seven single-family lots, which received preliminary approval as part of the Richards/PCMC Annexation.
7. Lot 3A is 0.62 acres and Lot 4A is 0.51 acres.
8. The Plat Amendment proposes to move the common Lot Line shared by Lots 3A and 4A twenty-three feet (23') westward.
9. The Plat Amendment will increase the size of Lot 3A to 0.71 acres and decrease the size of Lot 4A to 0.42 acres.
10. Per the Applicant, the purpose of this Plat Amendment is to provide additional room for a future garden and walkway in the rear of the existing SFD located on Lot 3.
11. The proposal complies with the Single-Family (SF) Zoning District requirements outlined in LMC Chapter 15-2.11.
12. The proposal complies with the Sensitive Land Overlay Requirements outlined in LMC Chapter 15-2.21.
13. The proposal demonstrates compliance with Ordinance No. 13-38, an Ordinance approving the Thaynes Creek Ranch Estates Subdivision – Phase 1 Plat.

14. The findings in the Analysis section of the Staff Report dated 7/12/23 are incorporated herein by reference.

Conclusions of Law

1. The Plat Amendment is consistent with the Park City Land Management Code, including LMC Chapter 15-2.11 and § 15-7.1-6 Final Subdivision Plat.
2. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
3. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval

1. The 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 shall record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Any new construction shall comply with Land Management Code Section 15-2.11 regarding Setbacks, Building Height, Building Envelope, Building Pad, etc.
4. All other Conditions of Approval and platted requirements for the Thaynes Creek Ranch Estates Subdivision – Phase 1 continue to apply and shall be noted on the plat by reference.
5. No further expansion of the existing non-conforming garage measured at 24.5 feet from the property line abutting Payday Drive, is permitted.
6. The final Plat Amendment shall include the plat notes for the Thaynes Creek Ranch Estates Subdivision – Phase 1 Plat.
7. No further expansion of the existing non-conforming Building Footprint, measured at 3,990 square-feet is permitted.
8. No further expansion of the existing non-conforming driveway measured at 21.8' abutting Country Lane is permitted.
9. Plat Note 18 will be added to the Plat as requested by the applicant as follows: "The roof of any building on Lot 4A within 75 feet of the south property line is

limited to an imaginary line that is a height of 12 feet from the existing ground at the east side Setback and sloping up to a height of 28 feet from the existing ground at the west side Setback. Standard City building height restrictions apply north of this 75-foot height restricted area.”

Commissioner Van Dine seconded the motion.

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

B. 1325 Empire Avenue and Parcel SA-200 – Plat Amendment –The Applicant Proposes a Plat Amendment to Amend the Knudson Subdivision and Parcel SA-200 and Re-Subdivide the Vacant Lots into Four Lots to Eventually Allow for Four Single-Family Dwellings. PL-22-05357.

City Planner, Jaron Ehlers reported that Senior City Planner Alexandra Ananth and City Engineer John Robertson were accompanying him in chambers, and Affordable Housing Manager, Jason Glidden was attending remotely. Also in attendance were the applicant, Gavin Steinberg, and the applicant’s architect, Bill Van Sickle, AIA.

Planner Ehlers presented a graphic of the proposed Plat and explained this Plat Amendment was for a four Lot Subdivision, with a shared driveway that would run between Lot D and the other Lots. He referenced the 5-foot easement for a fire access stairway on the north side of the Lot. He noted the two parcels that are part of this application highlighted in blue and red on the graphic. To the left was the Park City Mountain Resort (“PCMR”) parking lot. He also pointed out Norfolk Avenue and 13th Street. He referenced the Snyder’s Addition Plat and stated that the blue highlighted area showed the parcels at issue, and the graphic also illustrated the original Norfolk Avenue Right-of-Way (“ROW”). He noted that the road terminated at the Lot line of the proposed Subdivision.

On May 10, 2023, the Planning Commission provided feedback and a number of questions, which Staff felt were answered in the Staff Report. Planner Ehlers first addressed the issue of access. He stated that all proposed developments must have frontage on a public or private street, and originally neither the proposed Subdivision nor the Lots north of 13th Street had frontage on Norfolk Avenue. These Lots did, however, abut the platted avenue that did not have a road.

Therefore, in 2003 following negotiations with the builder, a non-exclusive Encroachment Agreement was signed between the City and the builder that allowed the creation of a privately built and maintained road on that public Right-of-Way. He mentioned that the road does not meet City standards, which is why the City does not maintain it.

Planner Ehlers reported that the proposed Subdivision has frontage through that portion of Norfolk Avenue, and the issue of access was deemed sufficient by the Park City Fire District and the City Engineer. With respect to the 2003 Encroachment Permit, Planner Ehlers presented the specific language that made clear that the intention of the Permit was to grant access to those Lots that sit on the Norfolk Avenue ROW north of 13th Street, as well as all properties that abut that platted Right-of-Way. He added that the Permit clearly provided that the roadway was to be maintained by the same Lots that were granted access to the Permit. He referenced the Historic home owned by the City located across the road from the privately

maintained Lots and stated that as a landowner, the City had been contributing to the snow removal and road maintenance fund for the past two years.

Planner Ehlers reported that the improvements allowed by the Encroachment Permit were a roadway, gutters, walls, and utilities as approved by the City Engineer at that time. It also provided that the City may, with notice, remove the road and construct a new road and all the improvements allowed in 2003 were on and remain on a platted City Right-of-Way. He highlighted that this portion of Norfolk Avenue was a privately maintained public street.

With regard to the shared driveway, Planner Ehlers advised that LMC Section 15-3-3 regulated shared driveway standards. The minimum width for a shared driveway was 10 feet, with a maximum width of 27 feet. The applicant proposed a minimum width of 19 feet and maximum width of 28.06 feet. He noted the proposed maximum width fell within the Code allowance. Planner Ehlers referenced a proposed Condition of Approval that would require the easement for the construction of the shared driveway to have a minimum of 20 feet.

Chair Suesser asked Planner Ehlers to explain the third bullet point that stated the minimum width of the proposed shared driveway was 19 feet and asked what the width was of the proposed shared driveway. Planner Ehlers stated that most of the shared driveway would be 20 feet wide, but as it approached Norfolk Avenue, it would flare out and become flush with the existing street. He explained this was why the shared driveway would have a larger maximum than most of the shared drive.

Chair Suesser asked if they were properly calling this a driveway when each of the homes would have a driveway. She noted this was more like a shared private road. Planner Ehlers responded that this was ultimately still a driveway, and each Lot owner would have their own specific Single-Family driveway off the shared driveway. Commissioner Shand understood that this would not be a continuation of a public road, and Planner Ehlers confirmed that understanding.

Commissioner Van Dine asked about the width of the current private/public road. Senior Planner Ananth believed it was built to approximately 20 feet wide, but the platted ROW was closer to 27 feet. She confirmed that this portion of the road had no sidewalks. When the improvements were granted for the homes that currently exist on northern Norfolk Avenue, Chair Suesser asked if those homes were considered a Subdivision. Planner Ehlers responded that those homes remained within the parcels platted by the Snyder's Addition and no new Subdivision was created.

Chair Suesser sought clarification that this application proposed a new Subdivision. Planner Ehlers advised that this application proposed to create a new Subdivision. Chair Suesser asked if the Streets Master Plan addressed this part of the City. Planner Ehlers stated it terminated at 13th Street, which was why the Encroachment Permit was required to grant access.

Planner Ehlers next addressed the questions regarding the configuration of Lot D. He recalled that on April 3rd, the Planning Director issued a Determination that Lot D was a corner Lot, and as part of that Determination found the Lot had two Front Setbacks with the southern Setback being 13 feet, and the western Setback at 12 feet. He added that Lot D also had a 12-foot Rear Setback and a three-foot Side Setback. He explained that the Side Setback was determined by the Lot width. The depth of Lot D was easy to determine because there was only one rear to

the Lot, and the depth was determined to be 87.5 feet. The width was therefore 37.5 feet. Pursuant to the LMC, Lots with a width of 37.5 feet have a Side Setback of 3 feet.

With regard to the stairs, Planner Ehlers stated the Fire Department required stairs in order to allow for access to the property in case of an emergency. There was interest in creating a public stair on the adjoining City-owned parcel because of the potential of Woodside Phase 2. He reported that the applicant and the City were in discussions on this issue, so Staff included Condition of Approval 4 that addressed both possibilities.

As to the questions raised regarding the maintenance of private fire access stairs, Planner Ehlers advised the applicant would be responsible for maintaining the private fire access stairs. He reported that the owners of Knudson Lot B were not amenable to amending the easement currently recorded on Knudson B; therefore Staff did not consider that to be a viable option.

In terms of snow removal and the maintenance of North Norfolk Avenue, Planner Ehlers highlighted several proposed Conditions of Approval. Condition of Approval 10 would require an HOA or some other agreement for the four homes to ensure snow removal and maintenance of the shared drive and the private access stair if created. To meet the obligations of the Encroachment Permit, the owners within the new Subdivision would be obligated to contribute to maintenance of North Norfolk Avenue. As a result, the applicant proposed recording an agreement that their successors would cover 50% of the cost of maintenance and snow removal of Norfolk Avenue, meaning that each of the new owners would be responsible for 12.5% of those costs.

Staff also proposed Condition of Approval 12, which would require the applicant to apply a new seal coat and make repairs to Norfolk Avenue occasioned by the construction activities, prior to issuance of the final Certificate of Occupancy for the final home.

Planner Ehlers reported that Staff found good cause as outlined in the Staff Report. He noted that no public input was received since the Packet was published, and all public input received prior to publication of the Packet was attached as Exhibit T. Staff recommended the Planning Commission review the Plat Amendment, hold a public hearing, and consider forwarding a positive recommendation for City Council's consideration on August 22, 2023, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as outlined in the Draft Ordinance.

Architect Van Sickle stated that they have worked closely with the Planning Department and other City Departments to create a development that would meet the LMC. They felt this project would make the best use of the land and would provide a benefit to the community. He stated they made several significant changes to the Plat Amendment since its inception and incorporated the feedback from the Planning Commission. With regard to Lot D becoming a corner Lot, Architect Van Sickle advised they increased the Side Setback from 3 feet on the corner to 12 feet. They also identified a total of 915 square feet of snow storage area within the development. They also addressed vehicle circulation and created a pedestrian path access easement for the possible future public staircase. He noted they also created emergency access. Snow removal and maintenance of the neighboring road were also addressed in the application.

The Setbacks on Lot D and the orientation were reviewed and it was determined that the proposed south/north orientation met the LMC and the design was satisfactory within the

Residential Commercial ("RC") zone. He advised the Planning Director stated that Lot D should be treated as a corner Lot, which resulted in the change from the three to 12-foot Setback. This would also result in a smaller home located further from the driveway. The entrance of the home was positioned on the south side of the Lot.

Architect Van Sickle presented a graphic showing the proposed snow storage area. They identified 915 square feet of snow storage, which were designated by the blue outlined areas on the graphic. There would be 228 square feet per house of snow storage, which would meet or exceed that for most homes in Old Town. With regard to the traffic circulation pattern, Architect Van Sickle advised that each Lot would have its own internal parking space, as well as an exterior parking space. He showed how the owners could access those spaces using the private drive. The City Engineer reviewed and approved the traffic circulation pattern.

Per the recommendation of the Planning Commission, Architect Van Sickle advised that they included a pedestrian access easement to the future public staircase on the property just to the north of this property. He stated they want to put in the public access staircase, but was told by the Fire Department that they must have a fire-connected staircase in place when combustible materials are delivered to the site. If they were not able to get the public access staircase built prior to construction, the applicant would build a private staircase to address the Fire Department's concern. When the public access staircase is built, they would demolish the fire access staircase. He stated that the applicant would be happy to share the cost of the public access staircase with the City; however, he felt it would not be in place prior to construction. He referenced the two Conditions related to this issue. He presented a graphic showing the 60-foot private drive and the three-foot pedestrian access area.

Architect Van Sickle next referenced the Fire Marshal's approval of the fire access staircase on the north side of the property, as well as the access through the private drive.

Chair Suesser asked about compliance of the proposed private roadway/driveway with LMC Section 15-7.3-4. Planner Ehlers advised that driveways were regulated under a different section of the Code. There was discussion about whether this was a road or a driveway, and Commissioner Sigg felt this was an important point to make. Chair Suesser observed that each of the homes would have driveways, and she felt this was a private roadway into a Subdivision. She stated the Code anticipated the construction of dead-end roads, and specifically under Section 15-7.3-4(I)(2) entitled Road Dedications and Reservations, "land reserved for any road purposes may not be counted in satisfying yard or area requirements contained in the Land Management Code," which would include Setbacks. Chair Suesser saw the private road as being counted as part of the Setbacks.

Senior Planner Ananth responded that North Norfolk Avenue was a platted City ROW and was considered a road. This drive was considered private and was considered a driveway. Architect Van Sickle stated they planned it as a private driveway because the access for Norfolk Avenue stops at the applicant's property. The idea was they could have a private drive.

Commissioner Sigg asked if there was a limit to the number of homes that could be fed from a private driveway. Planner Ananth replied that she had not found any such limit in the Code.

Chair Suesser again referenced subsection (I) of the Code section previously cited and quoted:

“Widening and realignment of existing roads. Where a Subdivision borders an existing narrow road, or when the Streets Master Plan indicates plans for realignment or widening the road that would require use of some of the land of the Subdivision, the applicant shall be required to improve and dedicate at its expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at its’ own expense to the full width as required by these Subdivision regulations. Land reserved for any road purposes may not be counted in satisfying yard or area requirements contained in the Land Management Code.”

She opined that this private road was being used to satisfy yard and area requirements contained in the Land Management Code. Senior Planner Ananth referenced a definition for Shared Driveways in LMC Section 15-15 that states: “A single access vehicular way that is privately owned and maintained and provides access to two or more structures or off-street parking areas which are located on individual Lots.” She stated this proposal met the definition of a Shared Driveway.

Chair Suesser noted there was no limit to the number of structures beyond “two or more.” Chair Suesser also noticed the section entitled Driveway Widths and Spacing, which referenced residential multi-unit and five or more parking spaces. She also noted that the supposed width of the private driveway was also satisfying Setback requirements. She queried whether the applicant was proposing a 19-foot driveway that they were measuring from for the Setbacks. She explained that her issue was that these were currently 75-foot Lots that were proposed to be extended to 85 feet, and this private drive was over the four proposed Lots rather than being dedicated to the HOA of the Subdivision as common space.

Chair Suesser wanted to explore that possibility rather than pursue this unique configuration of these Lots. She felt the existing platted Lot was two combined Old Town Lots, as it was 75’ x 50’. She expressed that the idea of breaking it into two Lots and increasing it to 85 feet and also increasing the width would result in an increase of density in this area. She would like to see one home built on the existing SA-300 [sic] Lot, one home built on the proposed Lot C, which would be a 75’ x 25’ Lot, with a common driveway in between, and also a home built on Lot D. Chair Suesser would also like to see a common roadway improved and dedicated to the HOA as a shared use driveway and common property of the HOA.

Chair Suesser felt this would be a more practical approach to this Subdivision and was supported by the transitional RC Zone where they were moving from Historic Old Town to this recreational support area. There was good reason to retain the platted Lot as a 75’ x 50’ Lot and to keep the northern Lot C also at 75 feet.

Commissioner Sigg added that LMC Section 15-1-2 addressed the Statement of Purpose. LMC Section 15-1-2(E) specifically addressed maintaining the Old Town character. He noted that Snyder’s Addition had always been platted at 25’ x 75’ Lots, therefore what was being created by these wider and deeper Lots was inconsistent with this provision.

LMC Section 15-1-2 (G) addressed existing hazards, erosion, and flooding, and Commissioner Sigg raised questions about the site itself. He noted the site was previously platformed for some sort of use, and as the property approached the Senior Center, there was a significant grade differential. There was also a significant rise to the back of the houses on Empire Avenue.

Although he had not quantified that, Commissioner Sigg observed there was no retainage. He also felt these houses might encompass a Steep Slope CUP. Planner Ehlers advised that this location was outside the Historic District and the Sensitive Land Overlay.

Commissioner Sigg asked about any mitigating factors for some of the natural earth to the west of the proposed development. He questioned the quality of the soil and the potential for sheet flow runoff into this area. He expressed concern about these issues as they related to the west boundary of the Subdivision. Commissioner Sigg asked if there was an analysis of the proposed Building Footprints versus the Code analysis of the permitted Building Footprints on each Lot. Architect Van Sickle stated that they had that information, but it had not yet been provided to the Commission. He stated they were following the Code formula.

Commissioner Sigg also noted a grade differential and shift in Norfolk and he was curious how the transition would work. He noted it was a 4 – 5 foot differential. Architect Van Sickle advised that at the top where the road joined the applicant's Lot, there was no offset. As far as drainage and sheet flow calculations, those would be provided at the time of the Building Permit. Architect Van Sickle added that in terms of the grade differential and the area to the right where the road drops off, the home on Lot D would be designed to use that slope to its advantage to have a lower level in addition to a street level. The Lots on the uphill side would have the garage on the lower level and the homes above. He stressed that the homes would still follow the charm of Old Town.

Commissioner Sigg noted that the home immediately to the south of proposed Lot A was at a lower level. If there was a differential there, he asked how the slope of the driveway would force water runoff. He asked if there were already CC&Rs in place for these agreements for shared maintenance. Applicant Steinberg reported that they presented their offer to pay 50% of road maintenance for that portion of the road, and it was also included as a Condition. There were no formal CC&Rs established yet.

Commissioner Sigg stressed the importance of establishing the easements across the road/driveway and into the Setback areas so they know there was permission to be within those areas. He wanted it to be clear that if they were running a road across a Setback area, they know it is established and the owners agree to that. Architect Van Sickle added that the easements would be part of the Plat development. Commissioner Sigg felt it would be helpful for the Commission to see how these would work.

Chair Suesser noted that one of the purposes in the RC Zone was to promote pedestrian connections within developments and to adjacent areas. She felt the connection from this area to PCMR was a focus of the City, and she was glad there had been discussion and potential collaboration to create this pedestrian walkway. She expressed concern, however, about public awareness of this access over this private road and she felt it needed to be clear that the public was welcome to access the stairway across this drive.

Architect Van Sickle stated the applicant would be happy to install signage for public access in this area. He added that part of the delineation would be accomplished by using a different material as had been done in Old Town.

Chair Suesser noted that unless the applicant could reach an agreement with the City, the stairway would be private. Applicant Steinberg stressed that they have a shared goal of building

a public staircase with the City, but they had just not gotten there yet. He added that if they were not able to reach an agreement prior to construction, they would need to construct a private staircase for fire access during construction.

Applicant Steinberg clarified that the four homes would not have exclusive access to the private staircase; rather, that staircase would be strictly for fire use and emergency access. He noted that the staircase would go over property that was not owned by the applicant, which explained why they could not make it a public staircase.

In response to an inquiry from Commissioner Shand, Applicant Steinberg believed that the other property was Knudson B. He added that there was an easement for the fire use only.

Commissioner Shand sought clarification that the staircase would not be located on Knudson A, the City-owned property. Applicant Steinberg explained that if they were able to work it out with the City, one idea was to put the staircase on City land; if not, the private fire staircase would remain on the applicant's land.

Chair Suesser stated the goal was to meet as many of the purposes of this zone as possible, and one of those purposes was to promote pedestrian connections. She pointed out that the private staircase would not satisfy that stated purpose in the Code.

Applicant Steinberg stressed that they were looking to put in pedestrian access and an easement through the property so that when there is a public staircase, an easement would allow people to access that staircase. He felt it would be a benefit to the community and the applicant was happy to provide that benefit. Although the staircase might not be public on Day 1, Applicant Steinberg stated they were happy to record an easement and create a pathway to be used when that staircase is constructed.

Chair Suesser asked if there was an agreement that the applicant would contribute to the cost of the public staircase. Applicant Steinberg stated they would be happy to do something, and they were currently trying to figure that out. They received a quote for the private staircase and were in early discussions with the City, in particular Manager Glidden. It was noted that Manager Glidden was involved because the potential staircase would be part of the Woodside Phase 2 parcel.

Commissioner Van Dine noted that the minimum width of the shared driveway was not included in the Conditions of Approval. Planner Ehlers stated it was a new Condition, and Commissioner Van Dine stated it would have to be added as the minimum driveway width. Commissioner Van Dine felt that subdividing this into Lots A – C was more consistent with the neighborhood than having the larger Lots. She acknowledged that Lot D was a weird Lot, and mentioned there were some weird Lots in Old Town. She asked the applicant if they spoke with the neighbors about the 50% cost sharing. Applicant Steinberg stated that he had.

Commissioner Van Dine liked that the applicant would be required to help repave Norfolk Avenue. She would like the City's goals to include upgrading it to a City street, but she understood the limitation they had with the Historic Lot. She appreciated what the applicant was doing with the stairs and felt they were doing the best they could. She understood they needed to construct stairs to start construction, but remained open to finding a way to work with the City to construct public stairs. She felt that supported this going forward.

Chair Suesser referenced Commissioner Van Dine's comments regarding the width of the shared driveway and noted the Code required it to be 18 feet, and the Staff Report stated it was 16 feet wide including other improved Setbacks. Commissioner Van Dine understood that the Condition required the driveway to be flared out at the transition to Norfolk to match Norfolk. Therefore, the 19-foot minimum would not be required for the entire driveway, but just at the ends where it meets the public/private Right-of-Way. Planner Ehlers commented that the minimum requirement, per the Code, is 10 feet.

Chair Suesser referenced a section on Multi-Unit Dwellings that required a minimum of 18 feet. Planner Ehlers pointed out these were not Multi-Unit Dwellings, which would be condominiums or apartment buildings. He confirmed that per the Code, the shared driveway must be at least 10 feet wide.

Commissioner Shand referenced Chair Suesser's question of whether the Setbacks were based off the centerline of the driveway or the edge of the driveway. Planner Ehlers stated that the Setbacks were based on the property line. Commissioner Shand understood that the Plat Amendment included the shared driveway with a centerline, and also that it showed that the Setbacks for Lots A - D were based off the edge of the driveway, not the centerline.

Architect Van Sickle explained that the centerline of the driveway was not related to the Setbacks; rather, the Lot lines referenced the Setbacks and the driveway was proposed to go over each of the properties as a private driveway. There was not a dedicated driveway line. The Setbacks were measured off the property lines and the driveway was shared between those properties. He recalled that the concern was that the shared driveway was not being used as part of the Setback and that the Setback was being measured from the outside edges of the driveway.

Planner Ehlers confirmed that the Setbacks were measured from the Lot line, which falls within the driveway. Commissioner Sigg asked if there was anything in the RC Zone that addressed how many driveways a single Lot could have. Planner Ehlers stated he was unaware of any such provisions. Commissioner Sigg commented that each of these homes would essentially have two driveways.

Chair Suesser sought clarification that the driveway was not considered the construction of a dead-end road. Planner Ehlers responded no because a driveway was defined separately from a road. Chair Suesser disagreed and felt they were just calling it a private driveway. She stated they were creating a Subdivision without a road, and calling the private roadway within the Subdivision a driveway for convenience so the development of these homes could be larger since they would not have a Setback line to work from.

Chair Suesser believed this was a dead-end roadway, and they should call it what it is and have it comply with the Code rather than trying to shoehorn a fourth or fifth driveway for these homes. She felt they were kidding themselves by calling it a private driveway into this Subdivision.

Assistant Director Ward reported that a Shared Driveway was a defined term in LMC Section 15-15-1. She asked Chair Suesser to confirm that she proposed considering the driveway as a common area so that the square footage of the Lots would remain separate. Chair Suesser confirmed this was her proposal.

Assistant Director presented an illustration as to what Chair Suesser's proposal would look like. Senior Planner Ananth explained this illustration would keep the SA-200 Lot as one parcel totaling 3,750 square feet and could allow for a duplex. She added that the adjoining Lot would be its own separate Lot, and keeping these Lots at 75 feet would create a remnant area of approximately 1,700 square feet that could technically be used for a driveway.

In response to an inquiry, Planner Ehlers advised that with this new configuration, what was referred to as Lot D would be 35' x 87.5' and it would have the same Setbacks as determined by the Planning Director. The width of the common dedicated roadway in this new configuration would be a minimum of 20 feet, and be slightly larger at the Norfolk Avenue end. Planner Ehlers noted that SA-200 sat slightly lower than the bottom of Knudson C at 1325 Empire Avenue.

Chair Suesser expressed confusion as to why SA-300 [sic] and Lot B were not aligned in this graphic. Planner Ehlers stated these two Lots did not align at the bottom of the graphic, and that the Lot shape of SA-200 versus what ended up being Knudson C as part of the 2014 Knudson Subdivision.

Chair Suesser observed that on the North Norfolk Plat Amendment, figure 2 in the Staff Report, it looked more consistent. Planner Ehlers explained that those original maps were codified in 2014, and noted that if you looked closely you could see a jog in the two parcels.

Chair Suesser acknowledged but sought clarification that SA-300 [sic], the currently platted Lot was a two standard Old Town Lots. Planner Ehlers confirmed. Assistant Director Ward clarified that this Lot was not platted; rather, it was a parcel with those dimensions.

Chair Suesser felt there was good reason to keep that parcel as is, because it was consistent with the grid in Old Town, and they could vary it slightly because they were in a transition zone; however, she felt it made sense to keep that parcel intact. She would only put one home on that Lot as it would also reduce the density and create more open space, which was consistent with the purpose of the RC District under the Code.

Commissioner Van Dine noted that a duplex could be constructed on the Lot.

In response to Chair Suesser's inquiry, Planner Ehlers stated that this Lot met the minimum requirements for a duplex. If the Subdivision were configured with three Lots instead of four, Planner Ehlers stated that a duplex would be possible on SA-200.

Chair Suesser opened the public hearing.

Mark Brian reported that he lives in the home adjacent to the red area shown on the map. He explained there was a permit granted 20 years ago that allowed for two houses to be built. At that time, he took over managing the street. He has spent approximately \$30,000 in plowing costs over that time, of which the City had contributed approximately \$600. He stated it had been arduous for him to manage this property that is owned by the City because others had refused to pay despite the requirement of the permit for all abutting owners to participate in the maintenance.

Speaker Brian stated that one of the homes was abandoned and repossessed by the Bank, who would not participate in the costs. He noted there were years when he paid for all the plowing for the entire year. He stated that the City-owned 50% of the property that abuts the road.

Chair Suesser asked the speaker to restrict his comments to this application rather than his grievances with the City.

Speaker Brian understood that he should take his grievances to the City Council and apologized for getting off track. He pointed out that road density had dramatically increased since 20 years ago. By having four new homes in addition to the condominiums and the Blue House owned by the City, the road would be fundamentally unsafe and would become burdensome for him to coordinate between ten different properties to collect maintenance costs. He stated he has taken the lead in contracting for the snow plowing and then collecting from the various property owners. He felt it was not reasonable for him to keep managing the street.

Speaker Brian appreciated the 50% offer from the applicant, but he did not know how that would continue into perpetuity. He stated he owns approximately 25 feet of the approximately 300 feet of frontage on this road. He has tried to set up meetings with the City Attorney and City Engineer and has not received a response. He reported that he hired an attorney to help him unravel this so that they could achieve fair and reasonable management of this street.

Chair Suesser reiterated the Code regarding widening and realignment of existing roads. She stated that “where a subdivision borders an existing narrow road, the applicant shall be required to improve and dedicate at its expense such areas for widening or realignment of such roads” and dedicate them to the City. She felt they might be at that point. Speaker Brian echoed this and stated that the road was unsafe and needed to be widened, especially considering Woodside Phase 2 which would dramatically increase the density and usage of this road. He stated it needed to be addressed, and whether it was now or later, after 20 years of managing the street he no longer wanted to do it. He felt this was an opportunity to address this.

Chair Suesser asked if Speaker Brian had any comments on the applicant’s proposal. Speaker Brian felt the sidewalk was on the wrong side of the street and connect to the sidewalk on 13th Street. He reiterated his view that the road was unsafe and a burden for him to manage. He felt the government had a role in assuring public good on public land, and this road belonged to the City so it should pick up the burden of maintaining it. He stated they paid their taxes, but they were not getting their services. When there were only two homes, the maintenance worked, but when there are 10 homes it does not.

William Michael O’Connell identified himself as the owner of 1307 Norfolk. He sent a letter dated May 10, 2023, in which he addressed his genuine concerns with the safety and the need to widen the road. He thanked the Commission for their hard work and thanked Mark Brian, who does not overstate the work he has done to keep the road as safe as he can. This year, with the snow they had, it was unreasonable and not safe even with just the three houses and the shack.

He read his May 10th letter as follows:

“I think Mark Brian captures the limited road access concerns perfectly in his emails to Cory. Essentially, North Norfolk is a one-way street. The winter season had many challenges with getting in and out of driveways on Norfolk and the residents had to pay

for the commercial plow service. They were overwhelmed with the winter, given the commercial plow service. I respectfully request that Park City take over the snowplow service for Lower Norfolk Ave. I view with genuine concern any solution for Lower Norfolk that will not make access safe and reliable. Widening Lower Norfolk with two-way access on Lower Norfolk and Lower Woodside would be a simple, easy, and smart solution. This would allow Park City to snow plow lower Norfolk, and provide safe navigation for the residents. A request is made to give this priority consideration for this project.”

He again thanked the Commission. Chair Suesser confirmed that the Commission had received his letter.

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

Commissioner Sigg reported that this was a difficult one and that there were a lot of unanswered questions. Going back and forth between the definition of driveway and road made this challenging. For him to feel good about this application, he would like to see CC&Rs and how the shared drive would be memorialized. He did not like the fact that they were moving forward with something that does not memorialize how things would be maintained. He would also like to see the easements for how the driveway encroachment into the Setbacks was handled in the CC&Rs.

Because of the nature of the site, he felt it could potentially require a retaining wall, which could be a wall of unknown height near the Senior Center. He would like to see some sort of geotechnical report on that as well as on the natural dirt and slope west of the property across the three proposed Lots. He noted the photograph showed a lot of unimproved area. Commissioner Sigg was aware that the connector road between Lowell Avenue and Empire Avenue had a slope from west to east and he could imagine erosion during a significant rainstorm.

Commissioner Sigg’s concern was with the earthen wall and the way the property was tiered. He would also like to see an analysis of the pitch on the road/driveway, so he could understand where sheet flow might go. He asked if a slope analysis had been performed on the site. Architect Van Sickle stated they performed a slope analysis and an existing topographical boundary survey. Commissioner Sigg would like to see those since it was evident that the site had been platformed or built up at some point in the past.

Commissioner Sigg expressed confusion over the five driveways and would like to see some sort of definition. He was curious whether there was a provision limiting the number of driveways that could access a Single-Family site because he had not seen that condition at too many other places in Old Town. This issue goes back to the Statement of Purpose set forth in LMC Section 15-1-2(E). Chair Suesser noted that this project is in the RC Zone, not Old Town. Commissioner Sigg wanted to see all of the things he mentioned before he would be comfortable forwarding a positive recommendation on this proposal.

Chair Suesser reiterated the Construction and Design Standards for the road and the construction of dead-end roads. Under the Code, “for convenience to traffic and more effective police and fire protection,” she felt it was important that this project comply with “convenient traffic and more effective police and fire protections.” She quoted the Code that “permanent dead-end street shall, in general, be limited in length to 650 feet.” If they look at Norfolk Avenue

from 13th Street to the end of the proposed Subdivision, she felt they were at 650 feet, if not in excess.

Chair Suesser mentioned the Code required a turnaround at the end of a permanent dead-end street to be compliant with the Construction Standards. She reiterated that if Norfolk Avenue were to be widened and realigned because this Subdivision bordered an existing narrow road, the applicant would be required to improve and dedicate at its expense such areas for widening or realignment of such roads. She added that the roads and streets shall be improved and dedicated by the applicant at his expense to the full width as required by these regulations. She also reiterated that land reserved for any road purpose may not be counted in satisfying yard or area requirements.

Chair Suesser opined it was clear under the Code that this was a dead-end roadway, and it should be improved to be compliant with the Road Design Standards. She again reiterated that the existing SA-200 Parcel was properly configured at 75' x 50' consistent with the Old Town grid, and variation on that to the north and west of the property could be appropriate in this transition zone. She expressed that the improvement of Norfolk Avenue from 13th Street to the end of this Subdivision was necessary for this application to move forward.

Commissioner Van Dine stated that she was ready to vote on this item tonight and felt the Code could be interpreted either way and that the interpretation by Staff and the applicant was necessarily wrong. She was agreeable with the added Condition of Approval for the width, and she felt that the applicant had consistently come back with a response to the Commission's feedback. She felt these issues had never come up before in the past three meetings, and now they were throwing the applicant another curveball.

Commissioner Van Dine did not understand if they were doing this because the Commission was trending towards denying the application as is or requiring the applicant to re-apply as a different development. She tried to understand if the Commission was trying to negotiate with the applicant or if they were approving or denying the application as presented. She asked the applicant if they wanted to continue this item to further address these issues or whether they wanted the Commission to proceed with the application as it stood now. Commissioner Van Dine expressed that she did not know where the end to this would be, because if the Commission was just setting it up to deny the current application, then they should give Staff the direction to do that.

Commissioner Shand understood Chair Suesser's concerns regarding Parcel SA-200 that it was a 50' x 75' parcel, but noted it was consistent with other properties on that side of the street that were 75' x 25'. From the corner of 13th Street along Norfolk Avenue to the property line, he measured it on GIS Mapping at 212 feet, so it would be within the dead-end street parameters. He understood the Commission had been reviewing this for the past two months, and there still seemed to be some unanswered questions. He suggested that perhaps a continuation was the correct way to proceed in light of three Commissioners being absent from this meeting. Commissioner Sigg concurred with that statement and added that it might be better to have more of the Commissioners present to vote on this application. Chair Suesser clarified that her comment about the 650-foot maximum for a dead-end street would be from 13th Street to the end of the proposed Subdivision. She noted that SA-200 was 50 feet by itself.

City Engineer, John Robertson offered that the 650 feet would be measured to the end of the roadway and would not include the private driveway length. They would interpret that as the

length of the unplatted Right-of-Way, which was the 250 – 300 feet previously mentioned. The measurement would not include the additional length into the private driveway. Chair Suesser asked if it would be measured differently if they referred to that as a private roadway that was an extension of Norfolk Avenue into the Subdivision. City Engineer Robertson stated that they view it as a private driveway and not a roadway. Assistant Director Ward added that when they return in September, they can include the defined terms from the LMC for clarification.

Commissioner Sigg asked about the applicant's preference regarding moving forward. The applicant stated that they would be happy to continue the item given the requests for clarification and the fact that some of the Commissioners were not in attendance at this meeting.

Commissioner Sigg felt a continuance was fair given the circumstances. Applicant Steinberg stated their goal was to be good partners with the City and good partners with their neighbors.

MOTION: Commissioner Van Dine moved to CONTINUE 1325 Empire Avenue and Parcel SA-200 – Plat Amendment, to September 27, 2023. Commissioner Sigg seconded the motion.

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

Chair Suesser noted that she considered the public hearing continued as well to September 27, 2023.

The Commission took a short recess.

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

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

She reported that Commissioner Sigg was recusing himself from this item. City Attorney Harrington indicated that Commissioner Sigg could vote on the procedural motion.

Assistant Director Ward requested that the item be continued to July 26, 2023.

MOTION: Commissioner Van Dine moved to CONTINUE 958 Woodside Avenue – Plat Amendment to July 26, 2023. Commissioner Shand seconded the motion.

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

D. 729 Rossie Hill - Conditional Use Permit - The Applicant Proposes a Nightly Rental Conditional Use Permit for a Single-Family Dwelling in the Lower Rossie Hill Subzone of the Historic Residential Low-Density Zoning District. PL-23- 05604.

Planner Niedermeyer reported that Justin Keyes and Frank Watanabe were present representing the applicant.

Planner Niedermeyer indicated that 729 Rossie Hill Drive is a Single-Family Dwelling within the Lower Rossie Hill Sub-Zone of the Historic Residential – Low Density (“HR-L”) Zoning District. He explained that the HR-L Zoning District had three sub-zones: the Western, the McHenry, and the Lower Rossie Hill. Nightly rentals within the Rossie Hill Subzone require a CUP. The Lower Rossie Hill Subzone included five Single-Family Dwellings within the Lilac Hill East Subdivision. 729 Rossie Hill Drive is Lot 2 of that Subdivision. The applicant submitted applications for two of the five properties – 729 Rossie Hill Drive and 755 Rossie Hill Drive – which are Lot 2 and Lot 3, respectively.

Planner Niedermeyer reported that the proposal complied with LMC Chapter 15-2.1. The proposal as Conditioned complied with the CUP criteria, outlined in LMC Section 15-1-10(E). He added that the Development Review Committee reviewed this application on May 2, 2023. LMC Section 15-2.1-2(B)(1) provides that “Nightly Rentals in the HR-L Zoning District in the Lower Rossie Hill Subzone requires a CUP.” Footnote 2 established additional requirements for Nightly Rentals, specifically, Nightly Rental Agreements shall include language that limits the vehicles allowed to the number of onsite parking spaces. Additionally, property management contact information shall be displayed in a prominent location inside the Nightly Rental.

Planner Niedermeyer reported that Staff recommended Conditions of Approval to ensure that these requirements would be met. As Conditioned, the proposal complied with the CUP Criteria. There were no unmitigated impacts with the size and location of the site, as it complied with the HR-L Zoning District Lot and Site requirements. The traffic considerations, including the capacity of the existing streets in the area, were addressed in Condition of Approval 1. He also stated that there were no unmitigated impacts to the utility capacity, including storm runoff, and the utilities for the Single-Family Dwelling were available on site. No change to the utility capacity or stormwater runoff was proposed.

Planner Niedermeyer reported that emergency vehicle access was addressed in Condition of Approval 2, and the location of off-street parking was part of Condition of Approval 1. Plat Note 6 of the Lilac Hill East Subdivision states: “[d]rives... shall provide twenty feet (20') wide of clear space to meet Fire Code. If parking impacts this twenty-foot (20') wide clear space, it will not be allowed and shall be signed ‘No Parking.’” He stated that the private drive that accesses this Subdivision was designed with a hammerhead configuration.

Planner Niedermeyer stated that the Engineering Department and Park City Fire District recommended Condition of Approval 2: “The Applicant shall install “No Parking” signs along the shared private drive within the Lilac Hill East Subdivision in a form and location approved by the Engineering Department and Park City Fire District prior to submitting a nightly rental business license application.”

The LMC requires two parking spaces for Single-Family Dwellings. He noted that 729 Rossie Hill Drive was a Landmark Historic Site on the Park City Historic Sites Inventory. Historic Structures were exempt from parking requirements; however, for CUP approval, all Conditional Uses proposed on a site shall comply with parking requirements of Chapter 15-3. Therefore, two parking spaces would be required. The proposal included one on-site parking space within the parking garage. The applicant initially proposed a parking pad in the front yard for the second space, which was difficult considering that the Historic District Design Guidelines recommend parking areas in the rear yard beyond the rear wall plane of Landmark Historic Sites. In addition, parking spaces are required to be 9' wide x 18' long. Nightly Rental

Agreements for properties in the Lower Rossie Hill Sub-zone must limit the number of vehicles to the number of on-site parking spaces.

Planner Niedermeyer advised that if the Planning Commission limited parking for this Nightly Rental to one vehicle, Staff would recommend Condition of Approval 1, as follows:

“Prior to submitting a nightly rental business license application, the Applicant shall amend the nightly rental agreement for 729 Rossie Hill Drive to limit guests to a maximum of one vehicle, which must be parked within the one-car garage on the property. Parking on the private driveway accessing 729 Rossie Hill Drive, along Rossie Hill Drive, and within the surrounding neighborhood is prohibited. The Applicant shall submit a form of the updated nightly rental agreement to the Planning Department to be kept on file.”

He further stated that if the Planning Commission determined that two parking spaces were required, the applicant proposed recording a declaration of parking easement against Lot 4 to satisfy a second parking space in the form of a parking pad. He reiterated that required parking must be satisfied on-site unless the Planning Commission allowed such parking on adjacent or nearby deed-restricted Lots. Lot 4 is not a Historic Site, and has an unusual configuration that would place the parking pad behind the Historic Structure at 755 Rossie Hill Drive and into the side of the proposed new Single-Family Dwelling for Lot 4.

Planner Niedermeyer presented a graphic provided by the applicant that showed the area of the proposed parking pad. He advised that Lot 2 was 729 Rossie Hill Drive, and Lot 3 was 755 Rossie Hill Drive. He added that the applicant proposed to screen the parking pad with vegetation as shown in the graphic.

Planner Niedermeyer advised that if the Planning Commission determined that two parking spaces were required, Staff recommended the following Condition of Approval 1:

“Prior to submitting a nightly rental business license application, the Applicant shall amend the nightly rental agreement for 729 Rossie Hill Drive to limit guests to two vehicles, one which must be parked within the one-car garage on the property, and the second which must be parked on the parking pad on Lot 4. The nightly rental agreement shall provide a site map outlining the two parking space limitations for 729 Rossie Hill Drive. The Applicant shall install a sign for the second parking space for 729 Rossie Hill Drive on Lot 4 in a form and location approved by the Planning Department limiting parking to 729 Rossie Hill Drive. Parking on the private driveway accessing 729 Rossie Hill Drive, along Rossie Hill Drive, and within the surrounding neighborhood is prohibited.”

He explained that there were no unmitigated impacts with the internal vehicle and pedestrian circulation system. There were also no unmitigated impacts to fencing, screening, and landscaping to separate the use from adjoining uses. There were also no unmitigated impacts on building mass, bulk and orientation, and the locations of buildings on the site. He added there were no unmitigated impacts on usable open space. Conditions of Approval were recommended for signs and lighting. Condition of Approval 3 provides that “Outdoor sign installations advertising the nightly rental are prohibited.” Condition of Approval 4 provides “Outdoor lighting shall be fully shielded and down directed with bulbs 3,000 degrees Kelvin or less prior to applying for a nightly rental business license.”

Planner Niedermeyer also referenced Conditions for noise, vibration, odors, steam, or other mechanical factor. Condition of Approval 6 governed the location and required collection of trash receptacles. Condition of Approval 7 states that "Trash cans shall not be left at the curb for any period in excess of 24 hours and the property must be kept free from accumulated garbage and refuse." He reported that Condition of Approval 8 provides: "The Lilac Hill East Homeowner Association Covenants, Conditions and Restrictions shall be recorded prior to applying for a nightly rental business license and shall include required snow removal and maintenance of the private drive from Rossie Hill Drive leading to the five Single-Family Dwellings."

Planner Niedermeyer stated the Draft Final Action Letter included the standard Conditions for Nightly Rentals reaffirmed LMC Section 4-5-3, which contains approval criteria used to determine whether a business license for a Nightly Rental should be issued. He reported that there were no unmitigated impacts for adjoining environmentally sensitive lands, physical mine hazards, historic mine waste, and the Park City Soils Ordinance or Steep Slopes.

Objective 7C of the General Plan is to focus future Nightly Rental units near resort neighborhoods, specifically Park City Mountain Resort and Deer Valley. He advised that 729 Rossie Hill Drive is roughly 0.3 miles to the nearest Deer Valley Resort Facility and 0.75 Miles to Snow Park Lodge. Planner Niedermeyer indicated that public input was received prior to this meeting, and was included in the Packet as Exhibit F. Staff recommended the Planning Commission review the proposed Nightly Rental CUP for 729 Rossie Hill Drive, hold a public hearing, and consider approving the CUP based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter.

In response to Chair Suesser's inquiry, the developer advised that the Single-Family home was approximately 3,400 square feet and had four bedrooms.

Applicant Keyes advised that they had prepared the CC&Rs, and they incorporated all the Conditions. He stated they were ready to record the CC&Rs. Applicant Keyes also advised that they prepared the Rental Agreement to be used with each property, and it contained all the conditions required. The only reason it was not finalized was they were awaiting direction from the Planning Commission on the number of parking spaces.

The developer indicated that as part of the development of Lilac Hill, those units were outside of the HR-L District and were available for Nightly Rental. He noted that none of the current tenants had used those units for Nightly Rentals. It was clarified that 729 Rossie Hill was part of Lilac Hill East, which was Phase 2 of the development.

Chair Suesser asked if 755 Rossie Hill Drive had the same parking configuration. The applicant advised that it had a two-car garage. He advised that 741 Rossie Hill Drive also had a single-car garage, but they had not filed for a CUP on that dwelling because it was quite a bit behind in construction and they were currently looking at creating a second parking space within the Lot. Technically, parking was not allowed along Deer Valley Loop, although everyone did park there. Chair Suesser felt that provided some nice excess parking to many of the homes along there with limited parking. It was noted that parking was allowed along Rossie Hill Drive in front of the development, although the permit prevented the developer from using that parking.

Commissioner Van Dine felt that with four bedrooms, they would need two parking spaces. She also wondered if the Conditions of Approval should include a requirement for snow plowing. The applicant stated that was already in the CC&Rs. Assistant Director Ward stated that was included in the Code requirements for Nightly Rentals. Commissioner Van Dine liked that the applicant would shield the parking.

Applicant Keyes reported that the easement was prepared and ready to be recorded depending on the Commission's direction regarding parking.

Chair Suesser opened the public hearing.

Angela Moschetta stated that this is one of the unfortunate projects and developments where the Code was failing the community. First, with regard to Historic preservation, she averred that this was not historic preservation, it was gentrification. She felt there was actual harm with this Nightly Rental CUP. These properties went from being unused to being redeveloped into McMansions purely for profit, and the developer has sought to enter them into the Nightly Rental pool, which goes against affordability, sustainability, and community goals. With regard to parking, by adding more parking spaces instead of encouraging nightly renters to use public transportation, they were encouraging more rental cars. She acknowledged there was probably not much the Commission could do, but she did not see how this project was in the spirit of a good community in Park City.

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

Chair Suesser agreed with Speaker Moschetta regarding the additional parking pad for this property. She indicated there was overflow parking on Deer Valley Loop, which was available. She felt it would be better to encourage Nightly Rentals to use public transit. She was concerned with a four-bedroom home with only one parking space, but she felt there was adequate parking in the neighborhood to accommodate an extra car rather than paving over additional land.

Commissioner Sigg reiterated his feeling on Nightly Rentals and the less housing available. He understood the profit motive but agreed with Chair Suesser and the public comment regarding parking. He stated they were trying to drive parking down to encourage transportation initiatives, and felt it would be better to have one big Suburban there instead of two.

Notwithstanding the Commission's obligations as set forth by the Legislature, he was not sure there was much they could do here. He hoped they work on the Code and how they address Nightly Rentals.

Chair Suesser agreed with Commissioner Sigg's comments and with Speaker Moschetta that this was a failure in terms of historic preservation of these homes and the historic character of this neighborhood. She felt this redevelopment was ill-conceived, but they have to work with what was there.

Commissioner Sigg supported reduced parking and would not require a second parking space.

Commissioner Shand stated that if the objective was for short-term rentals for this property, he concurred with Commissioner Sigg that one parking space should be sufficient for a four-

bedroom home. The typical renter would be coming in for a week of skiing, and the family could fit in a Suburban instead of adding a second car.

Chair Suesser observed that a majority of the Commission liked the application as proposed and would not require the extra parking space.

MOTION: Commissioner Van Dine moved to APPROVE 729 Rossie Hill – Conditional Use Permit - based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Final Action Letter as follows:

Findings of Fact

1. 729 Rossie Hill Drive is in the Lower Rossie Hill subzone of the Historic Residential-Low Density (HRL) Zoning District.
2. The Lower Rossie Hill subzone of the HRL Zoning District includes five Single-Family Dwellings that are part of the Lilac Hills East Subdivision.
3. 729 Rossie Hill Drive is Lot 2 of the Lilac Hills East Subdivision.
4. 729 Rossie Hill Drive is located on a 0.15-acre parcel.
5. 729 Rossie Hill Drive is accessed by a twenty-foot-wide shared private drive from Rossie Hill Drive. The private drive accesses all five Single-Family Dwellings within the Lilac Hills East Subdivision.
6. Size and location of the site – The Single-Family Dwelling complies with HRL Zoning District Lot and Site Requirements outlined in LMC § 15-2.1-3.
7. Traffic – 729 Rossie Hill Drive is accessed by a private drive from Rossie Hill Drive. There will not be a significant change in traffic generated for the property as a nightly rental compared to a Single-Family Dwelling.
8. Utility Capacity – Utilities for the Single-Family Dwelling are available on-site. No change to utility capacity or storm water run-off is proposed.
9. Emergency access – The private drive that accesses the five Single-Family Dwellings within the Lilac Hill East Subdivision is designed with a hammerhead configuration. The Lilac Hill East Subdivision plat notes include the following: “[d]rives... shall provide twenty feet (20’) wide of clear space to meet Fire Code. If parking impacts this twenty-foot (20’) wide clear space, it will not be allowed and shall be signed ‘No Parking.’” The Conditional Use Permit is conditioned on no parking along the private driveway.
10. Off-Street Parking – The Land Management Code (LMC) requires two parking spaces for a Single-Family Dwelling. The existing Single-Family Dwelling includes a one-car garage. 729 Rossie Hill Drive is a Landmark Historic Site on the Park City Historic Sites Inventory (LMC § 15-11-10(D)(1)(fd)). LMC § 15-2.1-4 states Historic Structures are exempt from parking requirements.

However, for Conditional Use Permit approval, LMC § 15-2.1-4 states “[a]ll Conditional Uses proposed on the site . . . shall comply with parking requirements of Chapter 15- 3.” The Applicant initially proposed a parking pad in the front yard to accommodate a second vehicle. However, LMC § 15-13-2(B)(1)(g)(4) recommends parking areas in the rear yard beyond the rear wall plane of Landmark Historic Sites and buffering the parking area from adjacent properties and the primary right-of-way. LMC § 15-3-3(F) also requires parking spaces to be nine feet wide and 18 feet long, and these dimensions are difficult to locate on-site. Nightly rental agreements for properties within the Lower Rossie Hill subzone must limit the number of vehicles for the nightly rental to the number of onsite parking spaces. The nightly rental Conditional Use Permit for 729 Rossie Hill Drive is restricted to one vehicle.

11. Internal vehicular and pedestrian circulation system – no changes are proposed.
12. Fencing, Screening, and Landscaping – no changes are proposed. The Lower Rossie Hill HRL subzone is surrounded by properties within the Residential Medium Zoning District, where nightly rentals are allowed. Recreation Open Space buffers the Lower Rossie Hill HRL subzone to the west, north, and south.
13. Building mass, bulk, and orientation – no changes are proposed.
14. Usable Open Space – no changes are proposed.
15. Signs and lighting – sign installations are prohibited, and outdoor lighting must comply with the Dark Sky Code.
16. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing – no changes are proposed.
17. Noise, vibration, odors, steam, or other mechanical factors that might affect people and property off-site – the property owner is responsible for regulating the occupancy and noise created by occupants of the nightly rental.
18. Control of delivery and service vehicles, loading and unloading zones, and screening of trash and recycling pickup areas – trash receptacles shall be stored on site and screened.
19. Expected ownership and management of the nightly rental – the property will be part of the Lilac Hill East Homeowner Association.
20. Environmentally sensitive lands – the property is not within the Sensitive Land Overlay, Soils Ordinance, or on steep slopes.
21. Consistent with the General Plan – Objective 7C of the General Plan is to focus future Nightly Rental units near resort neighborhoods – Park City Mountain Resort and Deer Valley.

22. 729 Rossie Hill Drive is roughly 0.3 miles to the nearest Deer Valley Resort Facility (Deer Valley Café); and 0.75 Miles to Snow Park Lodge and ticket office at Deer Valley.
23. The Development Review Committee discussed the proposed nightly rental on May 2, 2023.
24. On May 30, 2023, staff published notice on the City and Utah Public Notice websites and posted notice to the property, and mailed courtesy notice to property owners within 300 feet. The Park Record published notice on May 31, 2023.
25. On June 14, 2023, the Planning Commission opened a public hearing and continued the item to June 28, 2023, to allow the Applicant additional time to finalize the submittal. On June 28, 2023, the Planning Commission opened a public hearing and continued the item to July 12, 2023.

Conclusions of Law

1. The proposed application as conditioned complies with the requirements of the Land Management Code.
2. The proposed Nightly Rental is compatible with surrounding structures in use, scale, mass, and circulation.
3. The proposed nightly rental use is consistent with the Park City General Plan.
4. The effects of the difference in use or scale of the Nightly Rental have been mitigated through careful planning and Conditions of Approval.

Conditions of Approval

1. Prior to submitting a nightly rental business license application, the Applicant shall amend the nightly rental agreement for 729 Rossie Hill Drive to limit guests to a maximum of one vehicle, which must be parked within the one-car garage on the property. Parking on the private driveway accessing 729 Rossie Hill Drive, along Rossie Hill Drive, and within the surrounding neighborhood is prohibited. The Applicant shall submit a form of the updated nightly rental agreement to the Planning Department to be kept on file.
2. The Applicant install “No Parking” signs along the shared private drive within the Lilac Hill East Subdivision in a form and location approved by the Engineering Department and Park City Fire District prior to submitting a nightly rental business license application.
3. Outdoor sign installations advertising the nightly rental are prohibited.
4. Outdoor lighting shall be fully shielded and down-directed with bulbs 3,000 degrees Kelvin or less prior to applying for a nightly rental business license.

5. The property owner is responsible for regulating the occupancy and noise created by occupants of the nightly rental. Violation of Municipal Code of Park City Chapter 6-3 Noise, illegal conduct, or any other abuse that violates nightly rental regulations, or these Conditions of Approval is grounds for business license revocation.
6. Trash receptacles shall be stored on-site and screened and placed for trash pickup according to the Municipal Code of Park City § 6-1-11, which prohibits trash receptacles from being set out for collection prior to 6:00 PM of the day before collection. All trash receptacles must be removed from the street as soon as practical after being emptied, and in every case must be removed from the street prior to 11:59 PM the day they are emptied.
7. Trash cans shall not be left at the curb for any period in excess of 24 hours and the property must be kept free from accumulated garbage and refuse.
8. The Lilac Hill East Homeowner Association Covenants, Conditions, and Restrictions shall be recorded prior to applying for a nightly rental business license and shall include required snow removal and maintenance of the private drive from Rossie Hill Drive leading to the five Single-Family Dwellings.
9. The licensee for nightly rentals shall be the property owner. The local representative shall be deemed the responsible party.
10. Updated property management contact information shall be displayed in a prominent location inside the nightly rental.
11. The nightly rental shall be property managed through property management services with the minimum services and management required: snow removal during winter months to a level that allows safe access to the home over the normal pedestrian access; snow removal services to the two on-site parking spaces within the two-car garage; summer yard maintenance including landscaping maintenance; structural maintenance to preserve substantial code compliance; routine upkeep, including painting and repair; and housekeeping service.
12. The property owner must designate a responsible party. The responsible party must be a property management company, realtor, lawyer, owner, or other individual who resides within a one-hour drive of the property. The responsible party is personally liable for the failure to properly manage the nightly rental. The responsible party must be available by phone or otherwise 24 hours per day and must be able to respond to inquiries within 20 minutes. The responsible party is also designated as the agent for receiving all official communications from the City.
13. The nightly rental shall not be used for commercial uses and may not be used for a corporate sponsor or to distribute retail products or personal services to invitees for marketing or similar purposes.

14. The property owner shall obtain and renew a valid nightly rental business license for this Conditional Use Permit to be valid.

Commissioner Shand seconded the motion.

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

- E. 755 Rossie Hill Drive - Conditional Use Permit - The Applicant Proposes a Nightly Rental for the Single-Family Dwelling in the Lower Rossie Hill Subzone of the Historic Residential Low-Density Zoning District. PL-23-05605.**

Chair Suesser suggested Planner Niedermeyer focus on any differences between this application and the previous one.

Planner Niedermeyer advised that this application was similar to the prior application, wherein the applicant was requesting a CUP for Nightly Rentals for 755 Rossie Hill Drive. He explained that the Lower Rossie Hill Subzone included five Single-Family Dwellings within the Lilac Hill East Subdivision. 755 Rossie Hill Drive is Lot 3 of that Subdivision. He reported that the proposal for Nightly Rentals complied with LMC Chapter for the HR-L Zoning District, and the proposal as conditioned complied with the CUP criteria outlined in the LMC. The Development Review Committee reviewed the application on May 2, 2023. He stated that LMC Section 15-2.1-2(B)(1) provides that "Nightly Rentals in the HR-L Zoning District in the Lower Rossie Hill Subzone requires a CUP." Footnote 2 established additional requirements for Nightly Rentals, specifically, Nightly Rental Agreements shall include language that limits the vehicles allowed to the number of onsite parking spaces. Additionally, property management contact information shall be displayed in a prominent location inside the Nightly Rental.

Planner Niedermeyer advised that Staff recommended Conditions of Approval to ensure that these requirements would be met. He referenced Condition of Approval 1 that prior to submitting a nightly rental business license application, the Applicant shall amend the nightly rental agreement for 755 Rossie Hill Drive to limit guests to a maximum of two vehicles, which must be parked within the two-car garage on the property. There were no unmitigated impacts for utility capacity and emergency vehicle access was outlined in Condition of Approval 2. The location and amount of off-street parking was addressed in Condition of Approval 1.

As shown in the previous presentation, access to 755 Rossie Hill Drive was by a private drive with a hammerhead configuration. Per the Engineering Department and Park City Fire District, they recommend Condition of Approval 2 that states that "The Applicant install "No Parking" signs along the shared private drive within the Lilac Hill East Subdivision in a form and location approved by the Engineering Department and Park City Fire District prior to submitting a nightly rental business license application."

Planner Niedermeyer recited Condition of Approval 3 as providing that "Outdoor sign installations advertising the nightly rental are prohibited." Condition of Approval 4 states: "Outdoor lighting shall be fully shielded and down directed with bulbs 3,000 degrees Kelvin or less prior to applying for a nightly rental business license."

Planner Niedermeyer also referenced Condition of Approval 5, which he described as a standard Condition for noise, vibration, odors, steam, or other mechanical factor. Condition of Approval 6 and 7 address trash receptacles and their management. He reported that Condition of Approval 8 provides: "The Lilac Hill East Homeowner Association Covenants, Conditions and Restrictions shall be recorded prior to applying for a nightly rental business license and shall include required snow removal and maintenance of the private drive from Rossie Hill Drive leading to the five Single-Family Dwellings."

Planner Niedermeyer stated the Draft Final Action Letter included the standard Conditions for Nightly Rentals reaffirmed LMC Section 4-5-3, which contains approval criteria used to determine whether a business license for a Nightly Rental should be issued. He reported there were no unmitigated impacts for adjoining environmentally sensitive lands, physical mine hazards, historic mine waste, and the Park City Soils Ordinances or Steep Slopes.

Objective 7C of the General Plan is to focus future Nightly Rental units near resort neighborhoods, specifically Park City Mountain Resort and Deer Valley. He advised that 755 Rossie Hill Drive is roughly 0.3 miles to the nearest Deer Valley Resort Facility and 0.75 Miles to Snow Park Lodge.

Planner Niedermeyer reported that public input was received prior to this meeting, and was included in the Packet as Exhibit F. He stated that Staff recommended the Planning Commission review the proposed Nightly Rental CUP for 755 Rossie Hill Drive, hold a public hearing, and consider approving the CUP based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter.

Commissioner Shand observed that the difference between 729 Rossie Hill Drive and 755 Rossie Hill Drive was that the latter had a two-car garage. Applicant Keyes added that it was also slightly larger and had one more bedroom.

Chair Suesser opened the public hearing.

Angela Moschetta referenced her prior comments.

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

Chair Suesser felt they would see Nightly Rental CUPs for each of the homes built on Lilac Hill East, and she agreed with the public comment that it was unfortunate. She wished the Commission had the power to require one or two of them to be long-term rentals rather than Nightly Rentals. However, the Code and the State had tied their hands on this.

Commissioner Shand asked if the five homes were currently being marketed, and if so, he asked if they were sold. Applicant Watanabe stated that 729 Rossie Hill Drive was the only one brought to market so far and was under contract. 755 Rossie Hill Drive would be coming to market in the not-too-distant future. He added that 741 Rossie Hill Drive was approximately one year from completion, and they had yet to pull permits on the back two Lots.

Commissioner Sigg understood these applications applied only to the homes and not the Subdivision as a whole. Applicant Keyes confirmed that they had to apply separately for each home. Chair Suesser understood the Subdivision could restrict Nightly Rentals.

Applicant Keyes stated the HOA addressed Nightly Rentals, and it was structured so that it would incorporate provisions of Park City's Code as it relates to Nightly Rentals. The HOA regulates but does not prohibit them. It was noted by City Attorney Harrington that neither the CC&Rs nor the Certificate of Occupancy triggered the provision for Nightly Rentals as it related to the application to the City.

City Attorney Harrington stated that future rezoning would be the only way to restrict Nightly Rentals, or the Commission would have to find that the impacts for each individual property could not be mitigated. He stated as a Land Management Code Amendment, they could also change the standards and conditions in the Code without rezoning. Chair Suesser noted they could cap the number of Nightly Rentals in the Rossie Hill area as they did along Sullivan and Upper Norfolk. She understood that per State Legislation if a home is in a zone that allowed Nightly Rentals and the Subdivision did not prohibit them, the Commission's hands were tied. City Attorney Harrington added that was true unless they had a record that demonstrated conditions that could not be mitigated.

Applicant Watanabe commented that Lilac Hill East was downzoned 5 – 6 years ago, and was Residential-Medium, and the previous owner agreed to downzone it to HR-L. They were permitted to build 8 homes and only built five homes to try and preserve some of the open space.

MOTION: Commissioner Van Dine moved to APPROVE 755 Rossie Hill – Conditional Use Permit - based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Final Action Letter as follows:

Findings of Fact

1. 755 Rossie Hill Drive is in the Lower Rossie Hill subzone of the Historic Residential-Low Density (HRL) Zoning District.
2. The Lower Rossie Hill subzone of the HRL Zoning District includes five Single-Family Dwellings that are part of the Lilac Hills East Subdivision.
3. 755 Rossie Hill Drive is Lot 3 of the Lilac Hills East Subdivision.
4. 755 Rossie Hill Drive is located on a 0.17-acre parcel.
5. 755 Rossie Hill Drive is accessed by a twenty-foot-wide shared private drive from Rossie Hill Drive. The private drive accesses all five Single-Family Dwellings within the Lilac Hills East Subdivision.
6. Size and location of the site – The Single-Family Dwelling complies with HRL Zoning District Lot and Site Requirements outlined in LMC § 15-2.1-3.
7. Traffic – 755 Rossie Hill Drive is accessed by a private drive from Rossie Hill Drive. There will not be a significant change in traffic generated for the property as a nightly rental compared to a Single-Family Dwelling and nightly rentals will be limited to no more than two vehicles.

8. Utility Capacity – Utilities for the Single-Family Dwelling are available on-site. No change to utility capacity or storm water run-off is proposed.
9. Emergency access – The private drive that accesses the five Single-Family Dwellings within the Lilac Hill East Subdivision is designed with a hammerhead configuration. The Lilac Hill East Subdivision plat notes include the following: “[d]rives... shall provide twenty feet (20’) wide of clear space to meet Fire Code. If parking impacts this twenty foot (20’) wide clear space, it will not be allowed and shall be signed ‘No Parking.’” The Conditional Use Permit is conditioned on no parking along the private driveway.
10. Off-Street Parking – The LMC requires two parking spaces for a Single-Family Dwelling. The existing Single-Family Dwelling includes a two-car garage and onsite parking is satisfied.
11. Internal vehicular and pedestrian circulation system – no changes are proposed.
12. Fencing, Screening, and Landscaping – no changes are proposed. The Lower Rossie Hill HRL subzone is surrounded by properties within the Residential Medium Zoning District, where nightly rentals are allowed. Recreation Open Space buffers the Lower Rossie Hill HRL subzone to the west, north, and south.
13. Building mass, bulk, and orientation – no changes are proposed.
14. Usable Open Space – no changes are proposed.
15. Signs and lighting – sign installations are prohibited, and outdoor lighting must comply with the Dark Sky Code.
16. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing – no changes are proposed.
17. Noise, vibration, odors, steam, or other mechanical factors that might affect people and property off-site – the property owner is responsible for regulating the occupancy and noise created by occupants of the nightly rental.
18. Control of delivery and service vehicles, loading and unloading zones, and screening of trash and recycling pickup areas – trash receptacles shall be stored on site and screened.
19. Expected ownership and management of the nightly rental – the property will be part of the Lilac Hill East Homeowner Association.
20. Environmentally sensitive lands – the property is not within the Sensitive Land Overlay, Soils Ordinance, or on steep slopes.

21. Consistent with the General Plan – Objective 7C of the General Plan is to focus future Nightly Rental units near resort neighborhoods – Park City Mountain Resort and Deer Valley.
22. 755 Rossie Hill Drive is roughly 0.3 miles to the nearest Deer Valley Resort Facility (Deer Valley Café); and 0.75 Miles to Snow Park Lodge and Ticket Office at Deer Valley.
23. The Development Review Committee discussed the proposed nightly rental on May 2, 2023.
24. On May 30, 2023, staff published notice on the City and Utah Public Notice websites and posted notice to the property and mailed courtesy notice to property owners within 300 feet. The Park Record published notice on May 31, 2023.
25. On June 14, 2023, the Planning Commission opened a public hearing and continued the item to June 28, 2023, to allow the Applicant additional time to finalize the submittal. On June 28, 2023, the Planning Commission opened a public hearing and continued the item to July 12, 2023.

Conclusions of Law

1. The proposed application as conditioned complies with the requirements of the Land Management Code.
2. The proposed Nightly Rental is compatible with surrounding structures in use, scale, mass, and circulation.
3. The proposed nightly rental use is consistent with the Park City General Plan.
4. The effects of the difference in use or scale of the Nightly Rental have been mitigated through careful planning and Conditions of Approval.

Conditions of Approval

1. Prior to submitting a nightly rental business license application, the Applicant shall amend the nightly rental agreement for 755 Rossie Hill Drive to limit guests to a maximum of two vehicles, which must be parked within the two-car garage on the property. Parking on the private driveway accessing 755 Rossie Hill Drive, along Rossie Hill Drive, and within the surrounding neighborhood is prohibited. The Applicant shall submit a form of the updated nightly rental agreement to the Planning Department to be kept on file.
2. The Applicant install “No Parking” signs along the shared private drive within the Lilac Hill East Subdivision in a form and location approved by the Engineering Department and Park City Fire District prior to submitting a nightly rental business license application.

3. Outdoor sign installations advertising the nightly rental are prohibited.
4. Outdoor lighting shall be fully shielded and down-directed with bulbs 3,000 degrees Kelvin or less prior to applying for a nightly rental business license.
5. The property owner is responsible for regulating the occupancy and noise created by occupants of the nightly rental. Violation of Municipal Code of Park City Chapter 6-3 Noise, illegal conduct, or any other abuse that violates nightly rental regulations, or these Conditions of Approval is grounds for business license revocation.
6. Trash receptacles shall be stored on-site and screened and placed for trash pickup according to the Municipal Code of Park City § 6-1-11, which prohibits trash receptacles from being set out for collection prior to 6:00 PM of the day before collection. All trash receptacles must be removed from the street as soon as practical after being emptied, and in every case must be removed from the street prior to 11:59 PM the day they are emptied.
7. Trash cans shall not be left at the curb for any period in excess of 24 hours and the property must be kept free from accumulated garbage and refuse.
8. The Lilac Hill East Homeowner Association Covenants, Conditions, and Restrictions shall be recorded prior to applying for a nightly rental business license and shall include required snow removal and maintenance of the private drive from Rossie Hill Drive leading to the five Single-Family Dwellings.
9. The licensee for nightly rentals shall be the property owner. The local representative shall be deemed the responsible party.
10. Updated property management contact information shall be displayed in a prominent location inside the nightly rental.
11. The nightly rental shall be properly managed through property management services with the minimum services and management required: snow removal during winter months to a level that allows safe access to the home over the normal pedestrian access; snow removal services to the two on-site parking spaces within the two-car garage; summer yard maintenance including landscaping maintenance; structural maintenance to preserve substantial code compliance; routine upkeep, including painting and repair; and housekeeping service.
12. The property owner must designate a responsible party. The responsible party must be a property management company, realtor, lawyer, owner, or other individual who resides within a one-hour drive of the property. The responsible party is personally liable for the failure to properly manage the nightly rental. The responsible party must be available by phone or otherwise 24 hours per day and must be able to respond to inquiries within 20 minutes. The responsible party is also designated as the agent for receiving all official communications from the City.

13. The nightly rental shall not be used for commercial uses and may not be used for a corporate sponsor or to distribute retail products or personal services to invitees for marketing or similar purposes.
14. The property owner shall obtain and renew a valid nightly rental business license for this Conditional Use Permit to be valid.

Commissioner Shand seconded the motion.

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

8. ADJOURN

MOTION: Commissioner Van Dine moved to adjourn.

The meeting adjourned at approximately 9:35 p.m.

Approved 08.09.2023

Date: July 12, 2023
TO: Mayor Nann Worel, City Officials, and Interested Parties
FROM: Bob Theobald
RE: Water Well Location Authority – Utah Division of Water Rights, PCMC, and Planning Commissioner Hall

I write in regard to what I believe are continuing violations of the Park City Land Management Code (LMC) and other applicable laws by my immediate next-door neighbor at 2750 Meadow Creek Drive, Crescent Vertical LLC. Crescent Vertical is a shell company controlled by local real estate developers, Gerry and Sarah Hall. The Halls have apparently renovated properties in the City in the past and as numerous City officials have known for some time, are now in the process of a million dollar plus renovation project.

The project is located in a wetland located in a ‘sensitive lands’ area protected by the LMC. It includes planting a wall of high trees at the edge of the property with the express intent of obscuring valuable and protected mountain, meadow, and open space view corridors which at least six of my neighbors have enjoyed for decades, and drilling a private water well in the wetlands on this property to irrigate the wall of trees.¹ This extensive tree planting activity has been done without submitting a complete landscape plan or receiving appropriate approval to do so. Over the past ten months, a number of my neighbors and I have repeatedly complained to the City of these and numerous other violations in respect of the renovation project, many of which remain outstanding and which the City has inexplicably failed to address.²

In addition, a controlling person of the property is a sitting Park City Planning Commissioner and an attorney who, in my judgment, without question, should know when her actions are in violation of the LMC and who, in my judgment, has repeatedly, and with the full knowledge of the City, violated the LMC and Plat with impunity in the past.

The specific purpose of this letter is to call to your direct attention the utterly misguided notion apparently held by the Park City legal department that it has no authority over the subject well drilling activity because (it claims) the authority of Utah Division of Water Rights (DWR) supersedes the local land use authority. Apparently, due to this this incorrect conclusion, the legal department appears to be preventing the planning and building staff from executing their duties of review and enforcement of the LMC and Ordinances in respect of the drilling project.

On June 2, 2022, the property and water right owner applied to the DWR to change the point of diversion of the water right to 2750 Meadow Creek Drive for the purpose of drilling a well to

¹ The Halls’ water well is located at 2750 Meadow Creek Drive, Lot 2 Willow Ranch Subdivision. The water right and permit number is 35-131-67 (a49017). The drilling commenced operation on or about June 26, 2023.
<https://waterrights.utah.gov/apps/chprint/chprint.asp?chnum=a49017>

² Copies of our Complaints dated December 9, 2022 and February 15, 2023 are available upon request. The failure of the City to properly resolve these complaints is under appeal. [?]

irrigate 2.99 acres of the property. The State Engineer approved the change application on December 5, 2022. Apparently, the property owner failed to disclose the plan and location of the well to the planning department staff and failed to conduct the appropriate studies necessary to obtain the local approvals and federal permits prior to application or after approval. It is submitted that the well and all drilling operations violate the LMC, applicable Ordinances and the regulations of the Army Corps of Engineers, including:

- 1) Restrictions on development outside the platted Limits of Disturbance area (Building Envelope) without a plat amendment approved by the City;
- 2) Restrictions on development within the Sensitive Lands Overlay Zone without the required review and analysis - LMC § 15-2.21-6 subsections C, D, E, G., and
- 3) Restrictions on development outside the “HOUSE BUILDING/LANDSCAPE LIMITS AREA” as designated by the Army Corps of Engineers in delineated jurisdictional wetlands without a 404 Nationwide Permit.

Below are illustrations and images of the operation. The well location is plotted according to the UTM coordinates provided by the well driller’s Start Card relative to the platted Limits of Disturbance (LOD). Aerial photos taken on July 6, 2023 show the extent of well operations. The property slopes to the north and storm water may wash drilling fluids and surface waste through additional wetlands into Mcleod Creek. Recent tree planting including fruit, aspen and pines with fill material, wildlife fencing and the two MS4 “open channel” water ways are clearly visible.

The City appears to have abdicated its land use authority and enforcement obligations under the LMC. In fact, based on discussions with City officials, it appears that the City now blames the Utah Division of Water Rights for any violations or adverse impacts from the well operation. This notion has been expressed by City officials to me and others on at least two occasions.

On Friday, June 23, I went to the building department front desk to ask if any permits had been issued for a well drilling rig at 2750 Meadow Creek Drive and made a verbal complaint to the front desk official. She then asked a City Enforcement Officer to conduct a site inspection. I then spoke to the Enforcement Officer by phone and asked that he measure the distance between the well operations and the platted, surveyed LOD, and to confirm that the property was within the Sensitive Lands Overlay (SLO) zone. He initially questioned me whether the property was in fact in the SLO zone. However, upon further examination of the map, he agreed with me that the entire subdivision is indeed within the SLO zone.

The following Monday, June 26, I called the Enforcement Officer to ask about the results of his investigation. He told me he had been instructed not to speak about the issues and suggested I contact Planner Alex Ananth. I then left a message for Planner Ananth.

On Tuesday, June 27, Planner Ananth returned my call and told me her department’s position was that that DWR’s authority superseded the LMC and ordinances. I asked Planner Ananth if she was aware of the initial purpose and criteria for the LODs as set forth on the original Plat and carried over to all Amended Plats for Lots 1 and 2, Willow Ranch as adopted by the City. She said she was not aware. I reminded her that the LODs are the absolute boundary for the “HOUSE

BUILDING/LANDSCAPE LIMITS AREA as established by the Army Corps of Engineers in 1992/93 as amended. These areas were then, and are now, intended to remain as, in effect, built-up islands surrounded by undisturbed wetlands. It becomes more obvious to me that heretofore the planning and building departments are oblivious to the fact that a major wetlands exists throughout Willow Ranch Subdivision. This is further evidenced by never imposing an SLO analysis for any activity of Commissioner Hall. A CUP process would have exposed the SLO zoning. (Expedience over diligence.)

On Thursday, July 6, one of my neighbor went to the building department front desk to file a formal Code Enforcement Complaint regarding several issues related to the well drilling operation. He was told that all complaints are to be directed to the City attorney's office and that the UDWR's authority supersedes local land use and zoning regulations. Notwithstanding the City's stated position, my neighbor opted to file a complaint electronically which was accepted by the City on July 6, 2023 at 5:21 PM.³

Subsequently, I have discussed this matter with Gary Brimley, the Regional Engineer, Weber River/Western Region, for the DWR. It appears that the notion advanced by the City attorney's office that DWR overrides local land use regulations is absolutely incorrect.

As Mr. Brimley's email to me dated July 10, 2023 (copy below) indicates, the State Engineer's approval document includes an express **cautionary statement** applicable to all well permittees. It states:

"The applicant is strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicant to determine the applicability of and acquisition of such permits."

Furthermore, Mr. Brimley's email states that the State Engineer does not determine the location of a well. The State Engineer approves (or denies) the specific point of diversion as requested by the applicant/permittee. The permittee may be required to obtain additional approvals including plat amendments, excavation and/or fill permits from the City, the Corps, and other entities **"before any development of this application"**. Apparently, the Halls failed to do so and today the City refuses to enforce serious violations with the unsupportable excuse that the DWR's authority supersedes the City's authority.

The City must explain this apparently inexplicable situation to me, and to my neighbors, and to the concerned citizens of Park City. It appears that the property owner, which is controlled by a sitting Planning Commissioner, is now in violation of the LMC (and has repeatedly violated the LMC and other applicable laws, rules and regulations in the past)...with the knowledge and implicit acquiescence of the City, in direct contradiction of the stated view of the DWR.

Is this the result of special privileges being extended to a City official? Or is it the result of the City's repeated failure to correctly interpret the LMC and other applicable laws? Or does the City simply prioritize expedience over diligence in processing land use matters?

³ See Complaint upon request.

Whatever the reason(s), my neighbors and I are appalled at this on-going situation and suggest that City officials should be, too. I hope that you will fully investigate all related matters.

There are two major outstanding questions that apparently the City does not want to be answered by staff – In 2021:

- Why did not Commissioner Hall apply for a Conditional Use Permit?
- Why did not the Planning Department require a CUP?

Signatories of adjacent and nearby neighbors in support of letter content:

Date: July 12, 2023
TO: Mayor Nann Worel, City Officials, and Interested Parties
FROM: Bob Theobald
RE: Water Well Location Authority – Utah Division of Water Rights, PCMC, and Planning Commissioner Hall

Dell Fuller
Laine Fuller
Michael Watts
Stacey Sayers
Patrick Nelli
Kate Nelli
Martin Zagari
Vikki Zagari
Christine Grenney
Frode Jensen

See Exhibits Below

From: Gary Brimley <garybrimley@utah.gov>
Sent: Monday, July 10, 2023 5:15 PM
To: Bob Theobald <bob@theoski.com>
Cc: Jimgoddard@utah.gov; waterrights@utah.gov
Subject: Re: UDWR Well Permit versus Local Zoning

Dear Mr. Theobald,

The approval document for 35-13167 (a49017) contained the following language:

"The applicant is strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicant to determine the applicability of and acquisition of such permits."

For water right issues, the letter of the law indicates the State Engineer must approve a location for a person to drill. The reason for this, though, is for the proper administration of all water rights with a primary concern over water availability.

The State Engineer has jurisdiction over the proper construction of the well. The State Engineer's authority in the well drilling rules ([R655-4](#)) seems to be focused on the construction method and materials, not the location.

If a well is drilled in a wetland area, I believe concerns regarding wetlands will fall under jurisdiction of the Army Corps of Engineers.

If a well is drilled in an area that is subject to local ordinances, I think **it is up to the entity where those ordinances apply to enforce those ordinances.**

One last note, I think the Utah Division of Water Quality may be very concerned about drilling fluids discharging into the creek. They have a spill reporting hotline at 801-536-4123.

Respectfully,

Gary



Gary Brimley, P.E.

Regional Engineer, Weber River/Western Region

M: (385) 226-7805

E: garybrimley@utah.gov

Utah Department of Natural Resources
Division of Water Rights





