PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JUNE 28, 2017

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Preston Campbell, Steve Joyce, John Phillips, Doug Thimm

EX OFFICIO:

Bruce Erickson, Planning Director; Kirsten Whetstone, Planner; Ashley Scarff, Planner; Anya Grahn, Planner; Polly Samuels McLean, Assistant City Attorney
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REGULAR MEETING

ROLL CALL

Chair Strachan called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioners Suesser and Band, who were excused.

ADOPTION OF MINUTES

June 14, 2017

Commissioner Joyce referred to page 13, first paragraph, "…bigger so that it can handle [inaudible]. He noted that the inaudible word was trucks.

Commissioner Joyce referred to page 15, first line at the top and a comment made by Alfred Knotts, "I think it does provide a suite of mitigate measures." He thought it should actually be **mitigation** measures.

MOTION: Commissioner Phillips moved to APPROVE the minutes of June 14, 2017 as corrected. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT
There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Erickson responded to the question raised by Commission Joyce at the last meeting about why the three items for 1450/14460 had to be re-continued since those items had been continued to the same date at the meeting on May 24th. Director Erickson

explained that Louis Rodriguez pulled the legal notice, and found that the Planning Department had sent notice to the newspaper and it was on the legal notice that those projects would be heard on July 14th. For that reason, they needed to be re-continued. Director Erickson noted that the Planning Department has different deadlines for noticing procedures, which caused the confusion.

Commissioner Thimm referred to the three 1450/1460 Park Avenue items on the agenda this evening. He disclosed that Steve Brown was the applicant's representative and he has worked with Mr. Brown in a professional capacity in the past. Commissioner Thimm did not believe that association would affect his ability to be impartial.

Commissioner Thimm announced that he would be out of the State on July 12th and would not be attending the Planning Commission Meeting.

Chair Strachan announced that he would be absent from the meeting on July 26th.

Director Erickson would send out emails to verify whether the other Commissioners were available on those days to make sure they will have a quorum.

CONTINUATIONS - (Public Hearing and Continue to date specified.)

1. Land Management Code (LMC) amendments regarding Master Planned Affordable Housing Development amending LMC Chapter 6 Section 7, and other applicable sections in the LMC. (

Chair Strachan opened the public hearing on the three items above.

There were no comments.

Chair Strachan closed the public hearing.

Chair Strachan reiterated that the Planning Commission had continued these items to June 28th at the last meeting and no action was required.

4. <u>Land Management Code (LMC) amendments regarding Master Planned Affordable Housing Development amending LMC Chapter 6 Section 7, and other applicable sections in the LMC</u>.

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

MOTION: Commissioner Joyce moved to CONTINUE the LMC Code Amendments regarding MPA Housing Development to a date uncertain. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

2. 1800 Park Avenue, Double Tree (formally the Yarrow) - The applicant has requested an extension for the indefinite continuance of their previously approved Conditional Use Permit to allow for a temporary structure (tent) to be use twice per year for a maximum period of one hundred eighty days consecutively but for a maximum of 260 days out of 365 days in a year. (PL-17-03537)

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

MOTION: Commissioner Joyce moved to CONTINUE the extension of the CUP for the Double Tree at 1800 Park Avenue to July 26, 2017. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **280 Daly Avenue – Appeal of planning staff's determination for new construction regarding 1. a subdivision plat note regarding Maximum House Size and 2. Subdivision Conditions of Approval regarding the construction of a sidewalk. (Application PL-17-03522)**

Director Erickson stated that the Planning Commission would be hearing this appeal in a quasi-judicial role. The application is de novo. He emphasized that the appeal was on the determination for building size; and not the other approvals regarding the site.

Assistant City Attorney McLean outlined the procedure for appeals. The City presents its side of the argument and the appellant has the opportunity to respond. In this case, the applicant was not the appellant, but they are the owners and would have the opportunity to respond. The Appellant is typically given the opportunity for one short rebuttal.

Commissioner Phillips wanted to know who had provided the handout that they were given at the start of the meeting.

Planner Ashley replied that later in the afternoon she received via email the one-page letter. The other handout was a mark-up to the Staff report. The power point handout was a copy of her presentation. The Appellants, Jennifer & Gideon Malherbe, were not present this evening. Planner Ashley believed the emailed letter was from a neighbor on Daly Avenue who was representing the Appellant this evening.

Planner Scarff reviewed the request for the Planning Commission to review an Appeal of a Planning Staff determination for new construction relating to plat notes in the LMC. In January of 2017, the applicant submitted two applications in relation to new construction of a single-family home at 280 Daly, which is currently a vacant lot. One application was the Steep Slope Conditional Use Permit, and the second was the Historic District Design Review. After the Planning Commission approved the Steep Slope CUP on March 22, 2017, the Staff was able to approve the HDDR on March 27, 2017. On April 4th, the Planning Department received an appeal letter from the property owners of 297 Daly Avenue, which was primarily focused on the Steep Slope CUP approval. She noted that the ten-day appeal window for the Steep Slope CUP had passed at that point; however, some objections outlined in the Appeal letter were relevant to the HDDR approval, and that appeal window was still active.

Planner Scarff pointed out that on the first appeal letter, items that were specifically related to the Steep Slope CUP were not addressed because they were no longer appealable. Items that were relevant to the HDDR were addressed in the Staff report. The HDDR items would be the focus of discussion this evening.

Planner Scarff noted that the Appellant had focused their appeal on four main topics; vertical articulation, calculation of the maximum house size, garage size, and platted sidewalk and sidewalk easement requirements.

Planner Scarff commented on Vertical Articulation. The Appellant stated that the application requests permission to encroach into the minimum 10-foot setback for vertical articulation. They referred to LMC 15-2.2-5, which is the building height section of the HR-1 zoning district, which states that a 10-foot minimum horizontal step in the downhill façade is required; and that horizontal step shall place at a maximum height of 23' from where the building footprint meets the lowest point of existing grade.

Planner Scarff presented a slide showing the north and south elevations of the proposed structure. A dash line with elevation points indicated where the Staff would measure 23' up from where the building footprint meets existing grade, and then 10' horizontal. The structure would have to remain within that building envelope to meet that requirement. Planner Scarff pointed out that it was well under the 10' on the south elevation. Therefore,

the Staff still maintained the determination that the proposal meets the Criteria of 15-2.2-5(B).

Planner Scarff thought the bulk of the appeal related to the calculation of the maximum house size. In reviewing the project, the Staff found a plat note on the Washington Mill Subdivision, which states that Lot 1, which is the subject site, has a maximum house size of 2500 square feet. They pulled up the final subdivision plat approval that occurred on October 21, 1993. It was not approved as an ordinance; however, the City Council Minutes refer to the Exhibit as Conditions of Approval. It also utilizes the language "maximum house size", and limits the size on Lot 1 to 2500 square feet.

Planner Scarff stated that the term "maximum house size" is a common plat note on subdivision plats. Per the definitions found in the LMC, maximum house is specifically defined as a measurement of gross floor area. The definition of gross floor area is "the area of a building, including all enclosed areas". It does not include unenclosed porches, balconies, patios and decks, vent shafts and courts. Garages up to a maximum area of 400 square feet in the Historic District are not considered floor area. Basement and crawl spaces below final grade are not considered floor area. It also does not include the exterior wall area. That is basically measured from the finished surface of the interior of the exterior boundary walls. Planner Scarff remarked that the Staff refers to the definitions of basement and first story to help identify which level is the basement. She presented an image to show that the floor level of the first story was not more than 4' below final grade. Any level below the first story is the basement level.

Planner Scarff summarized that the Staff uses the definitions in the LMC to determine how to calculate the gross residential floor area. Up to 400 square feet of the garage is exempt. Basement and crawl space area is below final grade, as well as the exterior wall area. The bulk of the calculation comes in identifying which part of the basement is below final grade.

Planner Scarff remarked that in this situation the Staff typically identifies area on the perimeter of the structure where the ceiling of the basement level is within one foot of final grade. She presented all four elevations of the proposed structure and noted that the Staff identified a point to the left of the garage doors and to the right of the window well where the ceiling of the basement level is more than 1' foot away from final grade. The two points that were identified were transferred to the floor plans. Planner Scarff pointed to the lowest level.

Planner Scarff stated that she had updated the since the Staff report was prepared, but it was not in time to publish the numbers. She had marked the points shown on the elevations and connected the points with a line through the floor plan of the basement level to show which part of the basement was considered to be below final grade, and which

portion was not considered to be below final grade. She pointed out an area where the line goes through wall area, which would be exempt anyway. Approximately 67 square feet of area in the lowest level would be considered above final grade and included as part of the maximum house calculation. None of the total floor area on the main and upper levels are considered to be final grade basement area. The calculation results in 2,362 square feet for the maximum house size. Planner Scarff clarified that these were the latest numbers and the latest review as part of this Appeal.

Planner Scarff reported that she found a mistake that she had made during her initial approval and review; however, it did not affect the ability to approve this project because it still meets the maximum house size limitation of 2500 square feet.

Commissioner Thimm asked for clarification on Planner Ashley's comment that the square footage was different from what was recently received. He noted that the Planning Commission was given information and they have a staff report, and he thought they should be looking at the merits of what was provided in the Staff report. He asked if there was a reason to look at any other square footage.

Planner Scarff replied that the only difference between what was in the Staff report and the Exhibit she presented this evening, was that the Staff report included the exterior wall area. She explained that in her initial approval it was very obvious that the applicant was below 2500 square feet, including the exterior wall area. She had not asked for a re-calculation because they were below the limitation regardless.

Commissioner Thimm understood that the square footage with each calculation was less than 2500 square feet. Planner Scarff answered yes, and apologized for providing last minute information.

Commissioner Phillips asked for the approximate difference in square footage. Planner Scarff reviewed a slide showing the floor plans for the lower and main levels as approved in the HDDR on the approved set of plans. She commented on the area below final grade, and noted that the criteria meant that the ceiling of the basement level is within 1' of final grade. Her mistake was that she had excluded area on the main level where the ceiling was below final grade because it is such a steep slope. The ceiling in the back corner was actually below final grade and she incorrectly exempted that from the gross residential floor calculation. However, when she realized her mistake and redid the analysis, she found that the project still met the maximum house size restriction.

Director Erickson asked Planner Scarff if it was her opinion that this house was 2461 square feet gross residential floor area. Planner Scarff replied that it was the number as approved. The slide she presented showed it as 2366 square feet. In response to

Commissioner Phillips, Director Erickson pointed out that the reduction was the difference between 2461 square feet and 2366 square feet, which resulted from excluding the exterior wall. Planner Scarff referred to the lower level on the original approved set and noted that the architect was more conservative that the Staff in the initial set of plans. She had not requested a revised set of plans because she was confident during the approval that it met the criteria. Looking at the lower level between what was approved and what is current, a slight sliver was removed. She pointed out that the architect exempted less than she did. Commissioner Phillips asked if the architect showed a line of what he was exempting in the original plans. Planner Scarff answered yes.

Director Erickson believed that Planner Scarff had laid this out in terms of how the Code is applied for the definition of garage, and for the definition of gross residential floor area. She also used the correct LMC in those definitions, which is the current Code at the time of the application.

Planner Scarff reported that the objection to the size of the garage is similar to the maximum house size. The Appellant states that the garage area allowed in the 1993 conditions of approval is a maximum 400 square foot garage, and the subject application includes a garage wall over the maximum allotted size. Planner Scarff believed the issue was a difference in interpretation. The current Code allows for an exemption of 400 square feet of garage area in the Historic District. To be thorough, she also looked at the LMC that was in effect on October 21, 1993, and it was essentially the same for garages. At that time, the HR-1 zone regulated mass and scale of structures using a floor area ratio, they it still allowed an additional 400 square feet for a two-car garage after calculating the FAR. The Appellant interprets the City Council Minutes as saying that the garage cannot exceed 400 square feet in area total. However, the Staff believes that when the Minutes reference the LMC at the time, they were not saying that the garages in the entire subdivision could not exceed 400 square feet. If the City Council had that intention, they most likely would have made it a condition of approval. Planner Scarff thought the City Council was only citing the LMC that there was an exemption of 400 square feet for garages.

Planner Scarff noted that in looking at this project specifically, the garages in the lower level, the entire garage is considered basement area below final grade. She had not applied a 400 square feet exemption for a garage to this project. If the garage would have been designed on the main level, that exemption would have come into play, but because it was designed below final grade it was exempted as part of the basement definition.

Commissioner Phillips asked if the garage was on the main level, what the 400 square feet for a garage would be exempted from. He did not believe the City typically limits square footage. He thought most of the houses were limited by the building envelope and

footprint. Planner Scarff agreed that it was rare to have a maximum house size limitation within the Historic District. It is typically seen on plats outside of the Historic District. Commissioner Phillips assumed it was included in the Code in the event that a maximum is placed on the plat. Director Erickson replied that it comes out of the definition of what is counted in gross residential floor area. In any zone that has a house size restriction, that definition is applied city-wide. He pointed out that the exercise Planner Scarff went through was standard procedure for the Planning Department on every building application and every HDDR review. It was not a new procedure.

Planner Scarff noted that the fourth topic of the Appeal addressed sidewalk and sidewalk easement requirement during the subdivision approval. There were also plat notes to that affect. The Appellant states that the current application did not account for the 1993 City Council recommendations of a 4' sidewalk at the front of the lot, as well as a 6' trailer sidewalk easement provided in conjunction with the sidewalk. The Appellant was referring to Condition of Approval #2 in the 1993 City Council approval, which states, "A 4' sidewalk shall be constructed along the front of the lots with the final configuration to be approved by Staff. A 6' trail and sidewalk easement shall be provided in conjunction with the sidewalk, and shall be shown on the plat". Planner Scarff believed that was brought in during the final subdivision approval, and it was hand-drawn. She indicated the sidewalk easement in front of Lots 1 and 2. A note states that it was dedicated for the perpetual use of the general public.

Planner Scarff stated that as the Appellant noted in their letter, during the initial approval the City did not require a 4' sidewalk with the design. It is no longer in the Trails Plan and the City Engineer and the Planning Director determined that there was no need to have that sidewalk. As part of the Appeal, looking back at the previous City Council Minutes, they found that the sidewalk needed to be required based on City Council action and recommendation. If the property owner did not want to construct a sidewalk, they would have to obtain approval from the City Council to amend the 1993 action. Planner Scarff had informed the property owner and she received a revised site plan that included a 4' sidewalk. The Staff shared the revised plan with the Appellant, but they still decided to appeal the design.

Planner Scarff presented the plan that the Staff had approved without the sidewalk. It showed a 6' sidewalk easement but there was no sidewalk in the plans. She then reviewed the revised plan with the sidewalk added. It showed a 6' sidewalk easement and a 4' sidewalk, but the easement area was slightly on the south side because of an existing curb. Planner Scarff noted that the condition of approval allows the Staff to approve the final configuration, and it was approved by the City Engineer.

Planner Scarff explained that the applicant had to redesign and include retaining walls to retain the grade so the sidewalk could be built. In looking at the initial site plan, some of the retaining walls were included and others were not. She pointed out the retaining walls that were added for the purpose of providing room for the sidewalk itself. The Appellant did not believe that any structure should be within the sidewalk easement, with the exception of the sidewalk, because it does not allow for clear and unobstructed use. The Staff believed the retaining walls are for the sake of the sidewalk itself, and there was no reason why it could not be in the easement area. Planner Scarff remarked that the retaining walls meet the requirements of the LMC. The maximum height is 4' and they are within private property within the front setback area.

Tom Gaddick, the owner of 291 Daly, stated that he lives across the street from 280 Daly. He has met Susan and Jeff Bradshaw, the owners of 280 Daly, and he spoke with them several times before they purchased the property. He was anxious to welcome them as neighbors. Mr. Gaddick was concerned about the development in Old Town and particularly on Daly Avenue. He was very concerned by things that have happened in the past on Lower Daly Avenue where a house was built within approximately 6' of the road. He was made aware of some of the issues at 280 Daly by his neighbor, Jennifer Malherbe. Mr. Gaddick stated that he had emailed the letter to Planner Scarff and he apologized for omitting to put his name on it.

Mr. Gaddick clarified that the Appellant, Jennifer Malherbe, was out of town and she had asked him to attend this meeting on their behalf and relay their concerns to the Planning Commission. Mr. Gaddick stated that the vertical articulation and square footage were the main points of concern. He could be persuaded on the garage. Mr. Gaddick believed the method of calculating square footage on final grade, because the final grade of most of the front of house is street level. He questioned how they could exclude a whole floor of the house as not counting because two-thirds of it are surrounded by dirt, but the final grade at the front of the house is street. By his calculation, determining that two-thirds of the house is below floor level, if they take the area of the rooms that spill out onto the final grade of the street, it adds another 1100 square feet to the project. It creates an unusual situation where people can walk up to that grade of the street, which is below the grade of much of that level of the house. He found it to be incongruous with what was probably the intention of the City Council in 1993 to limit the size to 2500 square feet.

Mr. Gaddick thought the lack of the 4' sidewalk appeared to be inconsistent with the Washington Mill Subdivision. He pointed out that in 1993 the definition of the street included the sidewalk. Therefore, that if the sidewalk was added in the latest revised plan, the setback needs to be moved back at least 4' and probably 6'. He has a survey from the opposite side of the street that indicates that the street is supposed to be 25'

wide. He measured it as 21'. Mr. Gaddick suggested that the City should survey the street to see what is actually Daly Avenue. He thought the setback needed to be adjusted to reflect the fact that it should be from the sidewalk.

Mr. Gaddick stated that the approval of 4200 square feet that somehow back calculates to gross residential area of 2461 square feet, where roughly 1,000 is at grade at street level, did not make sense. He believed the actual number of square footage was above the limitation of 2500 square feet. Mr. Gaddick commented on concerns regarding flooding, and noted that water coming down Daly Avenue would flow into the garage and into the entire lower level. In terms of the wall effect of the house, he stated that standing on the northeast corner of the house on the lower front side of the house looking up from street level would be more than 30' up, and represents a 75+ degree visual angle that is obscured from that point.

Mr. Gaddick believed the issues needed to be considered. He has a PhD in chemistry and he could not understand the square footage calculation. Mr. Gaddick thought they should look at what the City Council was trying to accomplish when they limited the size to 2500 square feet. The concept of Gross Livable Space did not exist at that time. He thought it was inappropriate to apply the current LMC because it did not exist in 1993. It was restricted under the 1993 LMC and the owner at that time agreed to the restriction of 2500 square feet. He pointed out that the restriction was more severe than the LMC.

Chair Strachan asked Mr. Gaddick how he measured the 30' wall effect. Mr. Gaddick replied that he stood there and measured. He explained what he calculated to determine 30'. Chair Strachan asked if it was measured from existing grade as it exists today. Mr. Gaddick replied that it was measured from the street.

Chair Strachan opened the public hearing.

Jonathan DeGray, the architect for 280 Daly, stated that the applicant generally agrees with the Staff report and thought they did a good job of articulating all of the aspects of the Appeal. He thought it reflected the way they worked with the Applicant throughout the approval process in terms of how they measured the square footage, discussions regarding the building height, mass and scale, and other issues.

Mr. DeGray commented on the four analysis items for discussion this evening. Regarding the vertical articulation, Mr. DeGray believed it met the requirements of the Code in terms of not exceeding 23' at any given point. He pointed out that the height limit in that area is 27' and they were four to five feet under the allowable height as measured per the requirements of the LMC. Regarding the comments from Mr.

Gaddick about measuring the height, Mr. DeGray noted that he used the standards laid out in the LMC. Taking a sight line from any given point can skew the measurement on any home in Old Town or anywhere in the City if the measurement is taken from the street and from any point of elevation. He remarked that the LMC is very specific on how to measure. He believed Planner Scarff had done a good job explaining why and how they comply with the LMC.

Regarding the calculation of maximum house size, Mr. DeGray pointed out that during their due diligence period prior to purchasing the property, the Bradshaw's met with the Staff in a pre-application to clarify the 2500 square feet limit and what it meant, and how they should measure it. It was important to understand because at that point it was unclear how exactly to deal with it. The Staff outlined how it should be dealt with and they moved forward with that criteria and have been consistent throughout. It was that criteria that allowed the Bradshaw's to move forward with purchasing their property. Mr. DeGray thought the chart on page 78 of the Staff report outlining the building sizes did a good job reflecting how this particular building, measured under 2500 square feet, fits well into the neighborhood.

Mr. DeGray thought the Staff report provided sufficient information on how the garage was measured. He pointed out that the required minimum was 400 square feet, and they were at 592 square feet, but they saw no reason to change it because that part of the building was in the basement.

Regarding the sidewalk, Mr. DeGray noted that they have made all the requested changes, and the 4' sidewalk was added because they were asked to provide it. He stated that manipulated the grades on-site to provide the 4' sidewalk.

Commissioner Phillips asked when the space was created for the sidewalk and the retaining walls were put in, whether they disturbed from natural grade more than 4' in that section. Mr. DeGray replied that the walls as shown were compliant, which is why he was hesitant to move them back further. If he did, there is a vehicle in the Code for the Planning Director to approve going up to 6' in the front yard. Mr. DeGray clarified that it was not the case because the walls did not vary more than 4' from existing grade.

Assistant City Attorney McLean asked Mr. DeGray to verify the height from the bottom of the garage doors to the ridge. Mr. DeGray stated that the garage doors were down at 73036, there is a deck, and then the building steps back. On the south elevation, the dash line is the face of the garage door. The main level is above, and the roof ridge above that showed a plate height of 23'3". It was approximately 20'3" to the ridge. The back plate of the sloping roof over the living room is at 25'6", or 22' to the back of the sloped shed.

Director Erickson remarked that based on the HDDR, the height from existing grade to the maximum height of the house is less than 27'. Mr. DeGray agreed. Director Erickson stated that based on the HDDR submittal, the 35' internal height was also met from the lowest floor plate to the ceiling joist to the highest floor. He clarified that both of the heights were met and illustrated on the drawing. Mr. DeGray answered yes. He noted that the dash line above the elevations was the 27' height limit. Planner Scarff stated that she had calculated approximately 24 feet above existing grade at the tallest point.

Chair Strachan closed the public hearing.

Commissioner Joyce believed the Staff was correct in their determination because he could not see any exceptions. The Code that applies is the Code in effect when the CUP or the HDDR is application is submitted. He did not believe the 1993 LMC was relevant for this discussion. The current LMC applied to the four issues outlined. Commissioner Joyce remarked that the house size is what they typically see for gross residential floor area.

Commissioner Thimm concurred with Commission Joyce. He had gone through the exercise of calculating the height and walking through what was presented this evening. After looking at the square footage and the LMC, he found that the Staff had analyzed it correctly in accordance with the LMC.

Commissioner Campbell thought Commissioner Joyce made an important point about the LMC. It is important to understand that the review is based on the LMC in effect when the application was made and not when the subdivision was approved. Commissioner Campbell understood the Appellant's issue that it might not feel like what the City Council approved in 1993, but definitions change, which is why it is important to know which LMC applies. As the Code morphs and new items are adopted, those have to be taken into account. Whether or not they like the new calculating method, they still need to operate under that Code. Commissioner Campbell did not believe the Planning Commission had any grounds to object.

Commissioner Phillips concurred. From his observation, this application was treated consistent with what has been done in the past. He could see from the original plans before this Appeal that specific items were clearly thought out by the architect. For example, on the vertical articulation Mr. DeGray had drawn in the 10' setback. Commissioner Phillips thought it was clear that the applicant followed the LMC correctly, and that the Staff applied it correctly as well.

Chair Strachan concurred with his fellow Commissioners. Although he has never agreed with the calculation of gross floor area exempting basements, it is the law.

On a separate issue, Chair Strachan expressed concern over the number of errors that were made in the calculations. He cautioned the Staff to be more careful in the future and to make sure it is correct the first time, primarily for the reason that it could be appealed.

Chair Strachan was not certain he would have jumped to the conclusion that the 1993 City Council would have put in a condition of approval on the 400 square foot floor area for the garage. He thought it was impossible to know or say what they would have done.

Chair Strachan understood that they needed to strictly interpret the plat, but he thought the sidewalk serves very little purpose. There are no sidewalks for the houses on either side and it is a sidewalk to nowhere.

Chair Strachan agreed that the Staff's calculations were correct.

Assistant City Attorney McLean requested that Planner Scarff suggest which Findings should be amended to reflect the correct square footage.

Commissioner Campbell referred to the definition of basement and first floor in terms of things to address in the LMC amendments. He would like those definitions cleaned up because in his opinion, it appears to be a basement because it is not a first floor and vice-versa. Planner Kirsten Whetstone replied that the definitions are taken directly from the Building Code. Approximately ten years ago they were asked to make the LMC definitions match the Building Code. When they did that, they had the idea that because parts of basements are visible and above grade, those should be included in the floor area. Chair Strachan pointed out that nothing written requires the LMC definitions to match the Building Code.

Director Erickson replied that the issue was how to re-write the definition and still be consistent with how the Building Code interprets it. There are other issues related to calculating basements and crawl spaces. Commissioner Campbell stated that his point is that no one parks their car in the basement.

Director Erickson stated that Finding of Fact #13 needed to be corrected to reflect 2362 square feet. Finding #27 should be corrected to 2362 square feet of gross residential floor area or maximum house size. Planner Scarff also changed the "68 square feet"

on Finding #27 to correctly read, “67 square feet of area on the lower level to be above final grade”.

Joe Tesch, representing the owner, noted that Finding #13 stated, “2362 square feet, which includes all garage and exterior wall areas”, and that should be changed to “…excludes all garage and exterior wall area”. Director Erickson agreed. That same correction also applied to the last sentence in Finding #27.

MOTION: Commissioner Phillips moved to DENY the Appeal for 280 Daly Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report and as amended. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Thimm stated that it was mentioned that the definition of basement and first floor matched the Building Code. He clarified that the definition has actually changed, and if they were looking at definitions, he suggested that they look at the current model code for a definition. Commissioner Thimm thought it was a good idea to tie those together because trying to figure out building height, stories, etc. in multiple venues can be very difficult.

Planner Whetstone agreed that Commissioner Thimm made good point, which is why it was changed to meet those definitions. However, as Chair Strachan had stated, gross floor area is how they could define mass. There is a benefit to defining a basement, first story, etc.

Findings of Fact – 280 Daly Avenue

1. The site is located at 280 Daly Avenue.

2. The site is located within the Historic Residential (HR-1) District.

3. The site is not identified as a historic site on the City’s Historic Sites Inventory.

4. On January 3, 2017, the City received both a Steep Slope CUP application and HDDR application related to proposed development at 280 Daly Avenue.

5. The Steep Slope CUP application was deemed complete on January 19, 2017, and approved by the Planning Commission on March 22, 2017.

6. The HDDR application was deemed complete on January 10, 2017, and was

officially approved via Staff final action on March 27, 2017, following Commission approval of the Steep Slope CUP on March 22, 2017.

7. The HDDR plans were stamped approved, and the final action letter to the applicant was drafted and dated on March 24, 2017; however, Staff erred in not distributing the final action letter to the applicant or noticing adjacent property owners within 100 feet (100') until March 27, 2017, resulting in approved plans and a final action letter that do not reflect the correct final action date of March 27, 2017.

8. Exhibit G of this report is an email that confirms that the HDDR final action letter was distributed to the Applicant Representative on March 27, 2017, as well as a letter showing that adjacent property owners were noticed of final action on March 27th as well. Both documents established a ten (10) day appeal period that ran through April 6, 2017.

9. Both of the SS CUP and HDDR applications supported the request to construct a new single-family house at 280 Daly Avenue, which is currently a vacant lot.

10. 280 Daly Avenue is platted as Lot 1 of the Washington Mill Subdivision, which was approved by Park City Council on October 21, 1993.

11. Council minutes for October 21, 1993, contain Conditions of Approval which limit the maximum house size on Lot 1 at 2,500 square feet, and create a 6-foot (6') wide sidewalk easement along the front property lines of Lots 1 and 2, which Council indicated should contain a 4-foot (4') wide sidewalk. The maximum house size and 6' sidewalk easement are both included as notes on the Washington Mill Subdivision plat document.

12. The LMC defines Maximum House Size as follows: §15-15-1.168 MAXIMUM HOUSE SIZE. A measurement of Gross Floor Area.

13. The final HDDR plans approved a single-family structure with a total floor area of 4,220.6 sf including all garage, basement area, and exterior wall areas, but with a gross residential floor area of 2,362 sf, which excludes all garage and exterior wall areas.

14. Staff finds that, if the exterior wall areas were made exempt from the gross floor area calculation, the result would be a maximum house size that is less than 2,500 sf, in accordance with the plat note. This calculation will be a requirement during the building permit application process.

15. The approved set of plans did not include a 4' wide sidewalk running through the platted 6' wide sidewalk easement shown on the plat, but Staff has since required the Applicant to revise the site plan to show a sidewalk since its construction was a Condition of Approval during the 1993 subdivision process.

16. The 1993 Council action would need to be amended by the current City Council to void the requirement to construct a sidewalk at 280 Daly.

17. On April 4, 2017, the Planning Department received an appeal letter from Jennifer and Gideon Malherbe, owners of 297 Daly Avenue, which was focused on appealing the SS CUP approval that occurred on March 22, 2017.

18. The 10-day appeal period for the SS CUP had already lapsed, but Staff notified the appellants that the appeal letter included objections that could apply to Staff determinations made as part of the HDDR approval, which still had an active appeal period. The appellants chose to move forward with the appeal of Staff determinations related to the HDDR approval knowing that a number of objections they'd made were specific to the SS CUP, thus, not appealable.

19. The appeal was submitted within ten (10) calendar days of the distribution of the HDDR final action letter to the applicant, as well as the posting of the property and mailing of notice letters to property owners living within 100' of the site (March 27th).

20. Supplemental information was provided to the Planning Department by the Appellant on the deadline of June 9, 2017, which was a date established by the Planning Director.

21. Above discussion found in the staff report is incorporated herein.

22. The HR-1 chapter of the LMC requires the inclusion of a ten-foot (10') minimum horizontal step in the downhill façade, which shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Staff finds that the applicant never requested permission from Staff or the Planning Commission to design a structure that encroaches into the minimum 10' horizontal step that is required, and that the project complies with requirements of LMC §15-2.2-5(B), as proposed and approved.

23. Staff finds that the note printed on the Washington Mill Subdivision plat

document, as well as language used in the 1993 City Council minutes, utilizes the term maximum house size. Because the HDDR application was submitted on January 3, 2017, the project was reviewed under the current version of the LMC. Under the current LMC, when the term maximum house size is utilized, Staff refers to the LMC definition of the term, which refers to the definition of gross residential floor area.

24. LMC §15-15-1.109 defines gross residential floor area, which provides exemptions for 400 square feet of garage area, as well as basement and crawl space areas falling below final grade.

25. When determining if floor area can be considered basement area, Staff has historically deemed area on the lowest level exempt if the ceiling of that level is within one foot (1') of final grade.

26. During the de novo review completed as part of this appeal, Staff found that they erred in directing the project architect to exempt 230 sf of area on the main level of the structure that had a ceiling level within 1' of final grade. Floor area on the main level is not eligible for exemption from the gross residential floor area calculation.

27. During this de novo review, Staff also found that the amount of floor area (192 sf) on the lower level that was included in the gross residential floor area calculation was more conservative than Staff's determination. Staff finds that they would only consider approximately 67 sf of area on the lower level to be above final grade, which results in a revised gross residential floor area, or maximum house size, calculation of 2,362 sf. This calculation excludes the area of the exterior walls, which is exempt from the floor area calculation.

28. Staff finds that no other direction regarding the calculation of maximum house size is provided on the Washington Mill Subdivision plat or within the minutes of the 1993 City Council approval.

29. Staff finds that the intent of the maximum house size and gross residential floor area definitions is to limit the size and mass of structures that falls above grade, thus, is viewable from adjacent properties.

30. Based on Summit County records, Staff finds that the proposed floor area for 280 Daly is comparable to those of existing, nearby Daly Avenue properties, especially when the larger than average lot size of 280 Daly is considered.

31. Staff finds that the Appellants had two (2) opportunities during the HDDR public hearing process and during the SS CUP process, which was approved by the Planning Commission on March 22, 2017, to object to the volume of the structure and its appropriateness within the larger neighborhood context.

32. The 1993 City Council minutes describing the approval of the Washington Mill Subdivision do indicate that, at the time, maximum house sizes in the HR-1 zoning district were calculated using floor area ratios, but that the applicant had agreed to a size more restrictive than what the zone would otherwise allow.

33. Staff finds that, even with the application of the current version of the LMC, a larger structure could have been approved under restrictions of the HR-1 zone if the plat note was not present. In line with LMC §15-1-3 Conflict, the most restrictive limitation was applied to the project, restricting the size of the structure beyond what could have otherwise been achieved.

34. The definition of gross residential floor area allows for the exemption of 400 square feet of garage area if a project is located within the Historic District.

35. The proposed garage area, measuring approximately 592 square feet including exterior wall area, is located on the lower level of structure and was exempted from the gross residential floor area calculation as it met the criteria of a basement area.

36. Staff finds that if the garage had been proposed to be located on the main level, it would not have been considered basement area, and up to 400 sf of its area would have been considered exempt from the gross residential floor area calculation.

37. Staff finds that the language included in the 1993 City Council minutes approving the Washington Mill Subdivision regarding garage size did not have the intent of limiting total allowable garage area to 400 square feet, rather, was citing the LMC that was in effect at the time, which provided a 400 square foot exemption for garage areas over the maximum allowable house size, which at the time was quantified using a floor area ratio.

38. Staff finds that it is irrelevant that the other structures in the Washington Mill Subdivision do not include garages, as there is nothing in the 1993 subdivision approval that prevented the development of garages on those properties, and nothing that prevents the development of a garage at 280 Daly Avenue.

39. At the time of initial appeal (April 4, 2017), the approved set of HDDR plans did not include a four-foot (4') wide sidewalk as was a Condition of Approval during the City Council approval of the Washington Mill Subdivision on October 21, 1993.

40. Following the appeal, Staff recognized the error in not requiring a 4' wide sidewalk as part of the proposal, and the Applicant has revised the site plan to reflect a 4' wide sidewalk that parallels the Daly Avenue right-of-way.

41. The revised site plan does include multiple retaining walls, not to exceed 4' in height measured from final grade, within the 6' wide easement area with the purpose of retaining grade to provide room for the sidewalk.

42. Staff finds that there is no regulation that prohibits the construction of retaining walls within the 6' wide sidewalk easement, especially because the walls are included specifically for the benefit of the sidewalk.

43. Staff also finds that the construction of the retaining walls will not cause excessive site disturbance or inhibit safe access for pedestrians along the 4' wide sidewalk. If a sidewalk is to be constructed, there needs to be a mechanism for retaining grade on the steep slope at the front of the lot.

44. Staff finds that the construction of the retaining walls will not prevent the perpetual use of the sidewalk by the general public, as the Appellant has claimed in the appeal materials.

Conclusions of Law – 280 Daly Avenue

1. Staff interpretation of the plat notes was correct.
2. Staff interpretation of the Land Management Code (LMC) was correct.

Conditions of Approval – 280 Daly Avenue

1. Approval is based on Historic District Design Review (HDDR) plans stamped approved on March 24, 2017. Building permit plans must substantially comply with the approved set of plans, as amended to include a 4' wide sidewalk parallel to the Daly Avenue right-of-way.

2. All of the conditions of approval of the HDDR approval letter dated March 24, 2017, shall continue to apply.

3. The expiration date of the HDDR approval shall be extended to one (1) year from the date of this order. A building permit shall be secured by the applicant by June 28, 2018.

Order:
The appeal is denied and Planning Staff's determinations are upheld.

2. 4001 Kearns Boulevard – First Amendment to the Park City Film Studios Subdivision, a re-plat to create three platted lots of record from existing 29.55 acre Lot 1 and to include a 0.8 acre parcel acquired from UDOT for storm water detention. The property consists of approximately 30 acres. (Application PL-15-03005)

Planner Whetstone reported that she had received an email from the applicant requesting a continuation to the July 12th meeting.

Director Erickson noted that the Condition of Approval #16 with respect to landscaping had been revised since the last meeting.

Planner Whetstone recommended that the Planning Commission conduct a public hearing this evening to get public comments on the record.

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

MOTION: Commissioner Joyce moved to CONTINUE the first amendment to the Park City Film Studio Subdivision to July 12, 2017. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

3. 1450-1460 Park Avenue – A plat amendment requesting to combine Lots 1 and 2 of the Retreat at the Park Subdivision at 1450-1460 Park Avenue into one lot of record. (Application PL-17-03501)

4. 1450-1460 Park Avenue - Conditional Use Permit (CUP) application for the construction of a Parking Area of five (5) or more than spaces at 1450-1460 Park Avenue. Applicant is proposing to construct nine (9) parking spaces along Sullivan Road. (Application PL-17-03502)

5. 1450-1460 Park Avenue- Request for Approval of a Condominium Plat for the combined Lots of the Retreat at the Park Subdivision for eight (8) residential units. (Application PL-17-03503)

The Planning Commission reviewed these three items together and opened a single public hearing on all three. Separate actions were taken.

Planner Grahn provided a brief background on the projects and why the three applications were connected. She explained that there were two lots of record; one for 1460 and one for 1450 Park Avenue. Initially, the applicant had proposed to keep these lots separate with a pedestrian easement down the center. One advantage of keeping the lots separate was the ability to have four parking spaces on each lot, which is an allowed use. She clarified that a parking area of five or more spaces triggers a conditional use permit. Planner Grahn reported that based on the feed the applicant received last summer from the Planning Commission, as well as concerns expressed by the Community Development Department and the Engineering Department, they did not favor the two tandem parking spaces at 1450 Park, especially if they were shared by the neighbors. One parking space was relocated, which initiated the plat amendment.

Planner Grahn remarked that the purpose of the plat amendment is to combine the two lots of record that already exist. It explains the existing lot sizes and the requirements. The applicant had complied with all of the requirements.

Planner Grahn reviewed the conditional use permit application for a parking area of 9 spaces. The conditional use permit is required for a parking area of five or more spaces. The nine spaces occur based on the proposal to combine the two lots. Planner Grahn noted that the applicant chose to concentrate the parking along Sullivan Road, which is a drive through City Park and not an actual City street. Doing this maintains the integrity of the historic houses and the historic character of Park Avenue. It also meets the Design Guidelines, which encourages parking areas to be in the back of the lot.

In terms of traffic consideration, Planner Grahn reported that the City Engineer found that the eight new homes were going to generate ten trips per day. She emphasized that the conditional use permit is only for the parking area and not for the development itself. Therefore, those 80 trips per day could be absorbed by Sullivan Road and Park Avenue. The City Engineer found that this congestion would add to the current traffic congestion during the peak holiday weekends and special events. Planner Grahn pointed out that the development could not provide any local remedy that would alleviate an existing problem.

Planner Grahn stated that there would be no increased utility capacity. Storm water runoff and utilities have all been addressed as part of the larger development. Emergency

access could occur off of Park Avenue or Sullivan Road. The applicants have chosen to mitigate the appearance of the parking area to the best of their ability by including a vegetated berm. The berm would not disallow emergency vehicle access.

Planner Grahn thought it was important to note the location and amount of off-street parking. The calculation the Staff used was based on the construction of six new single family houses. A single family house requires two parking spaces per house. If this had been a multi-unit dwelling where the units are combined, it would have actually generated 8.5 parking spaces based on the size of the units being proposed.

Planner Grahn stated that the Staff had created conditions of approval in an effort to help with the amount of the off-street parking. The parking will be managed by the HOA and not the City; and one of the conditions asks that in the CC&Rs the applicant provide for certain specifications, such as no more than two cars per unit, maintaining ADA parking if required, the length the time of vehicle can be parked, restrictions on vehicles sizes, snow removal and so forth.

Regarding internal vehicles and pedestrian circulation, Planner Grahn noted that the access for this parking area was along Sullivan Road. Pedestrian access could be from either City Park or through the pedestrian easement that goes down the middle of the lot. Fencing is not required, but it will be screened with landscaping. A trash enclosure on the northeast side of the lot will have fencing and hide the parking from the struggler building. Planner Grahn stated that the parking area did not create more building mass or bulk. It would be more difficult to mitigate the bulk if they were building the garage. Concentrating the parking in the back of the lot prevents it from impeding on the historic integrity of the site.

Planner Grahn noted that there were no open space requirements; however, the applicant was providing 55% open space. Signs and lighting have been conditioned so that the Planning Department reviews and approves them prior to any installation. The parking area complies with the Design Guidelines as outlined in the Staff report.

Planner Grahn pointed out that noise, odors, and steam caused by other parking areas along Sullivan Road already exists. This parking area would not add to those impacts. Deliveries would occur between Park Avenue and Sullivan Road. She stated that the expected ownership would be a condominium plat once that has been recorded. The property is not in the SLO, and it is consistent with the General Plan.

Planner Grahn remarked that the historic structures would not be threatened or hurt by this parking area. The parking was located a significant distance from the structures to help maintain that integrity. The City would obtain façade preservation on the homes

before they are sold to individual owners. The new units have to comply with the Design Guidelines and the Staff found that those had already been met.

Planner Grahn reviewed the application for the Condo Plat, which would condominiumize the project to allow the units to be sold to individual owners. The tables beginning on page 374 of the Staff report outlined the sizes of those units.

Steve Brown, development consultant on behalf of the City, and Jesus Vendasu, the project architect for Caddis Architecture, were present to answer questions.

Mr. Brown complimented Planner Grahn for her thorough compilation of what has occurred over the last year in response to the comments made by the Planning Commission last summer, primarily related to tandem parking on the Park Avenue side. Mr. Brown commented on the exhaustive process they had gone through reviewing this with all of the City departments and the service providers, and well as going through the HDDR and HPB process. He thought they had done a fairly good job of trying to respond the Commissioners' comments and to make sure there would no unmitigated issues remaining. Mr. Brown stated that they have a good record of Code compliance and he was pleased with the end result. He was willing to walk the Commissioners through the site if they were interested in a site visit.

Chair Strachan opened the public hearing on the plat amendment, the CUP and the condominium plat for 1450-1460 Park Avenue.

There were no comments.

Chair Strachan closed the public hearing.

Chair Strachan stated that even though these three applications come close to satisfying the Code, he thought it was presumptuous and counter-productive for the City to go ahead and build these and to get as far along as they did under the umbrellas of the need for affordable housing. Chair Strachan believed there was a strong need for affordable housing, but the need for affordable housing also must follow the regular procedure. He thought it perceived favoritism to the City when another applicant who comes in with an application similar to this one would not get as far along in the construction process. He was certain that Commissioners Phillips, Campbell and Thimm could attest to that based on their construction experience. Chair Strachan remarked that the fact that the City was able to get this far and the Planning Commission was just now seeing the plat amendment and the CUP was unfair to every private applicant. He understood that the need for affordable housing is huge, but the City has to follow the same rules as everyone else. He rides his bike by this project

every day and he thinks it is very hypocritical that the City would do this. He was not opposed to the project and he probably would have favored it had it followed the proper process prior to construction.

Commissioner Thimm agreed with Chair Strachan. However, after reviewing all three applications, the mitigation measures, and going through the conditions of approval, he thought the intent of the LMC was met.

Commissioner Joyce disagreed that the LMC had been met. He noted that the Planning Commission pointed out flaws in the parking six or eight months ago and they voiced a lot of concerns regarding the parking plan. At that time, they were told that the only decision was whether or not they could park on Sullivan Road, and the Planning Commission had said yes. Commissioner Joyce stated that in hindsight that decision was a mistake. They Commissioners should have said no and made the City Council overturn their decision. By saying yes, the Planning Commission kept seeing continuances, and they ended up with a plan that he would not approve for any applicant. Commissioner Joyce pointed out that he has consistently said that when the City is the applicant they should be held to the absolute strongest standard that they would hold for any applicant, because otherwise it is favoritism.

Commissioner Joyce stated that in looking at the parking plan, the only way to get to 12 parking spaces is two spaces for the six new units, and eliminating the parking for the two historic buildings on the historic sites inventory. He remarked that the reason they eliminate parking requirements for the Historic Sites Inventory buildings is to protect the historic properties that are mostly built on 25' x 75' lots. He noted that 1450 and 1460 Park Avenue had off-street parking and the City tore it out. Instead of doing what they talk about with the provision of not having to provide parking for those historic structures, the City went in the opposite direction. The City tried to quadruple the density on the lots and they could only do it by invoking the fact that they did not need to providing parking for the two historic buildings; and only provide parking for the new buildings.

Commissioner Joyce thought the problem continued to exacerbate. The City misused that piece of the Code and they removed existing off-street parking. He referred to the map on page 368 of the Staff report and the three-car parking spots at the lowest end. He believed that if they asked people on the street which residents would use those three parking spots, he was certain they would say the two yellow buildings because it makes sense. That is how it was designed. Commissioner Joyce disagreed with the idea that those structures will not have off-street parking and those residents will park in the street, because it was obvious that they were parking those structures. In addition, the conditions of approval state that there are no assigned parking spaces.

Commissioner Joyce stated that if they came to the Planning Commission with the same layout, but said they were going to assign parking spaces and put something in the deed for the two historic houses that requires them to park in the street and prohibits parking on-site, he might be able to accept counting 12 parking spaces under those circumstances. The problem is that the City would never enforce it, and pushing enforcement off to an HOA does not fix the problem. This is an under-parked project.

Commissioner Joyce stated that he and Commissioner Campbell have discussed what it means to under-park a commercial project. Commissioner Campbell believes that under parking a commercial project is fine because if customers have trouble finding a parking place, that business loses customers and the parking works itself out. However, this is a residential project and if it is under-parked people will park in the street or in City Park. It pushes the problem out into the neighborhood.

Commissioner Joyce remarked that the fact that the City is twisting the way they count parking is disheartening. He was confident that no matter what the Planning Commission decides, the City Council would approve it because the project is nearly built. Commissioner Joyce could not support these applications. He wished they could have had this discussion before the construction started, which is when it should have occurred and when the Planning Commission tried but were steered away.

Commissioner Campbell thought it was an easy out for regulations to look at what technology is going to do in the future. He believed most of those people would not own cars five or ten years from now, so he was going to look the other way and pretend that the City did not manipulate the process. Commissioner Campbell agreed that it is frustrating to have rules and for the City not to live by the same rules as everyone else. He would like to find some way to send that message to the City Council. Commissioner Campbell pointed out that the Planning Commission wants to support affordable housing and wants to do whatever they can to streamline the process, but Chair Strachan is correct in saying that the City should not get a streamlined version over what a private applicant could get. He agreed with Commissioner Joyce, that if this had been a private applicant the project would have never gotten this far in the process. He thought everyone should be concerned about the public questioning how this was pushed through and built before it was completely approved. Commissioner Campbell asked Director Erickson to make sure in the future that the Planning Commission is not a party to something like this before it gets too far down the road. He felt that whatever they did tonight, the perception is going to be that the Planning Commission allowed it, and that is not the case.

Assistant City Attorney McLean commented on the CUP and the existing site from a legal standpoint. She stated that notwithstanding the issues with the parking and the fact that Council Member Beerman was in attendance and would relay their comments to the City Council, the application is for a conditional use permit for a parking area greater than five spots. It is not an application for how the project is and how it is parked. It is about the impacts of having more than five cars together. Ms. McLean explained that how it exists right now without the plat amendment to remove the interior lot line, the applicant would not need a CUP because they would have two smaller structures, or four and four. The applicant would be able to park it in a manner where a CUP is not needed. She recognized that it may be an issue with the LMC that should be addressed globally in terms of how these projects will be parked. Ms. McLean stated that from a legal standpoint, the lens for looking at the CUP is what are the impacts of having those cars in the back, what are the impacts of having them together, and have those impacts been adequately mitigated. It was not about the issues of parking for the historic house. Ms. McLean clarified that regardless of the applicant, the City, as the regulator, would have to find that this adequately parked because that is all that is required. There are no parking requirements for the historic homes.

Commissioner Campbell pointed out that their frustration is that the plan has continued to evolve. His experience has been that a private applicant would have to have a completed plan before any of it could be approved. In this case the Planning Commission approved parts of it early on, and now their hands were tied. The Commissioners had no choice but to approve this because of how much has already been constructed. The applicant has no choice in terms of how to park it.

Chair Strachan asked what would happen if the Planning Commission denied the plat amendment. Assistant City Attorney McLean believed that the applicant would not ask for the CUP or the plat amendment, and instead come in for two condominium plats for the lot to the south and the lot to the north. Chair Strachan pointed out that under that scenario there would not be a need for more than five parking spaces, and the project would be under-parked. Ms. McLean explained that each unit would still be required to have two spaces and there would be six spaces on each lot, but because the parking spaces would not be together, it would not require a CUP. Commissioner Joyce pointed out that it would then go back to tandem parking, which is what they opposed at the last meeting. Ms. McLean noted that tandem parking is permitted under the Code, even though it was not the best solution.

Chair Strachan believed the parking plan presented this evening was the best result of many evil results, but it was never approved by the Planning Commission. He reiterated that the process was disheartening and it would have never been allowed for a private applicant.

Commissioner Phillips agreed with his fellow Commissioners about the order of the process. However, he thought this was a better plan than what they saw at the last meeting and it has adequate parking. He agreed that the applicant had manipulated and did some things, but everyone does it. It also meets the Code. Commissioner Phillips stated that if he had spoken first, he was going to mention that the order of the process seemed backwards and that upsets him as a Planning Commissioner. He was also upset that the Planning Commission did not have the opportunity to review this project prior to construction. He was unsure whether or not it was part of the fast-track for affordable housing that was previously mentioned, but if that is the case, then it needs to be applied fairly to future applicants of affordable housing.

Commissioner Joyce asked if 12 parking spaces is the right number based on the fact that the two historic houses are going to park off-site. If the applicant thinks the historic houses are going to park on the property, they need to provide four additional spaces. Commissioner Phillips pointed out that the Code gives an exemption for historic houses. Commissioner Joyce replied that the Code is not designed for subdivisions. He wanted to know how they could make sure that the four cars associated with the two historic homes never take the other parking spaces.

Director Erickson clarified that there was not a restriction in the CUP that prevents the historic houses from using one or more of the common parking spaces. Therefore, historic houses have the same right to those 12 spaces as everyone else in the condominium. He was not aware of a special exemption. Director Erickson explained that they were not exempting the historic houses from parking. They were only being asked to comply with the Code for historic houses. Commissioner Joyce argued that they were under-parking what the Code recommends.

MOTION: Commissioner Joyce moved to forward a NEGATIVE recommendation to the City Council for the plat amendment for the Retreat at Park First Amended at 1450-1460 Park Avenue.

The motion died for lack of a second.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for 1450-1460 Park Avenue Plat Amendment request to combine lots 1 and 2, the Retreat at the Park Subdivision, based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance. Commissioner Thimm seconded the motion.

VOTE: The motion passed 3-1. Commissioner Joyce voted against the motion.

Commissioner Joyce asked if there was electricity out to the parking areas for charging electric cars. Mr. Brown replied that there was no electricity at this point in time. Commissioner Joyce pointed out that the City was making proposals about people driving electric cars yet they were selling affordable housing in a way that no one could own an electric car. He thought that was incongruous with everything else the City was trying to encourage. For future affordable housing proposal, he would like charging stations for electric cars to be part of their subdivision developments.

Mr. Brown stated that they were considering charging stations in the Woodside Park Phase 1 and Phase 2 projects. Commissioner Campbell thought they should first solve the problem of who will pay for it. If there are nine spots and they are not restricted to a specific house, he would be opposed to the City paying for an individual's electric car.

MOTION: Commissioner Phillips moved to APPROVE the Conditional Use Permit for 1450-1460 Park Avenue in regards to the five stalls or more, based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Thimm seconded the motion.

VOTE: The motion passed 3-1. Commissioner Joyce voted against the motion.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for 1450-1460 Park Avenue request for approval of a condominium plat for the combined lots of the Retreat at the Park Subdivision for residential units, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the draft ordinance. Commissioner Thimm seconded the motion.

VOTE: The motion passed 3-1. Commissioner Joyce voted against the motion.

<u>Findings of Fact -1450-1460 Park Avenue – Plat Amendment</u>

1. The property is located at 1450-1460 Park Avenue in the Historic Residential-Medium Density (HRM) District.

2. The subject property consists of Lots 1 and 2 of the Retreat at the Park Subdivision approved by the City Council as Ordinance 07-20 and recorded at Summit County on August 16, 2007.

3. On December 8, 2015, the Planning Department received a Historic District Design Review (HDDR) application for the rehabilitation and relocation of the historic houses at 1450 and 1460 Park Avenue. The HDDR applications were

approved on November 21, 2016.

4. On February 3, 2016, the Historic Preservation Board (HPB) approved the material deconstruction for the historic houses at 1450 and 1460 Park Avenue. The HPB approved the relocation of the house at 1450 Park Avenue 8'6‖ to the west towards Park Avenue and the relocation of the house at 1460 Park Avenue 5'5‖ to the west towards Park Avenue was approved by the HPB on March 2, 2016

5. On July 13, 2016, the Planning Department approved Conditional Use Permits (CUP) at each address to allow access off Sullivan Road.

6. On March 20, 2017, the Planning Department received an application for a plat amendment to combine Lots 1 and 2 of the Retreat at the Park Subdivision at 1450-1460 Park Avenue; the application was deemed complete on March 27, 2017.

7. The proposal complies with the allowed uses in the HRM District.

8. The combined lot size will be 18,294.43 square feet.

9. The minimum lot width in the HRM District is 37.50 feet; the combined lot width will be 108.25 feet along Park Avenue and 100.99 feet along Sullivan Road.

10. The required front yard setback is 15 feet in the HRM District; the applicant is providing a 15 foot front yard setback.

11. The required rear yard setback is 10 feet in the HRM District; the applicant is proposing a 22 foot setback.

12. The required side yard setback is 5 feet in the HRM District; the applicant is proposing 5 feet along the north and south side yards.

13. Single-family dwellings are an allowed use in the HRM District.

14. The site is not located within the Sensitive Lands Overly District. There are no known physical mine hazards. The site is within the Soils Ordinance Boundary and the site will have to meet the Soils Ordinance.

15. Property is located in a FEMA Flood Zone A

16. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 1450-1460 Park Avenue – Plat Amendment

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

Conditions of Approval - 1450-1460 Park Avenue – Plat Amendment

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one 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. Required public improvements and landscaping, as applicable, shall be completed at the time of conversion or security provided to ensure completion as provided by ordinance.

4. The applicant shall dedicate a façade preservation easement to the City for the historic structures at 1450 and 1460 Park Avenue following their restoration and prior to sale of the historic buildings to private property owners.

5. The property is located within the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) boundary. Final construction must comply with the Soils Ordinance regulations.

6. The applicant shall show and label their easement with Snyderville Basin Water Reclamation District (SBWRD) on the plat amendment.

7. A ten feet (10') wide public snow storage easement will be required along the

Park Avenue frontage of the property.

8. Surface utility boxes for this project shall be located on the property.

9. Because of Park City's implemented Storm Management Plan, construction projects shall need to identify drainage areas and planned Best Management Practices (—BMPs‖) to control erosion and off-site migration of soils.

Findings of Fact – 1450-1460 Park Avenue – CUP

1. The property is located at 1450 and 1460 Park Avenue.

2. The zoning is Historic Residential-Medium (HRM) Density District.

3. The lots at 1450 and 1460 Park Avenue currently each contain a historic house. The sites are designated as Significant on the City's Historic Sites Inventory (HSI).

4. The property is identified as Lots 1 and 2 the Retreat at the Park Subdivision and contains a total of 18,294.43 square feet. Both lots have street frontages along both Park Avenue. The rear yard of the properties back up to Sullivan Road.

5. Sullivan Road is a private drive, not a City Street.

6. On February 3, 2016, the Historic Preservation Board (HPB) approved the material deconstructions at 1450 and 1460 Park Avenue. The relocation of the house at 1450 Park Avenue by 8'6" and the house at 1460 Park Avenue by 5'5" to the west towards Park Avenue was approved by the HPB on March 2, 2016.The HDDR applications were approved on June 14, 2016.

7. The HDDR applications to construct the three (3) new single-family dwellings behind each of the historic houses were approved on November 21, 2016.

8. On July 13, 2016, the Planning Commission reviewed a CUP request for access off of Sullivan Road; the CUP was approved.

9. The proposed combined lot size of 1450 and 1460 Park Avenue, following recording of a plat amendment, of 18,294.43 square feet is greater than the minimum required lot size for a development of eight (8) dwelling units (9,625 SF). On July 13, 2016, the Planning Commission approved a CUP application for access off of Sullivan Road.

10. The existing site is located on Park Avenue, which is a major residential collector street. The site is immediately surrounded by multi-family dwellings.

11. The historic houses at 1450 and 1460 Park Avenue are designated as "Significant" on the City's Historic Sites Inventory (HSI), and are not required to provide parking. The six (6) new single-family dwellings proposed on the combined lot are required to provide two (2) parking spaces each for a total of twelve (12) spaces.

12. To lessen traffic conflicts along Park Avenue, the applicants have chosen to locate most of the parking at the rear of the lot along Sullivan Road. The applicant is proposing one (1) parking space accessible from Park Avenue to be adjacent to the historic house at 1450 Park Avenue; two (2) parking spaces accessible from Park Avenue will be adjacent to the historic house at 1460 Park Avenue; and the remaining nine (9) parking spaces will be concentrated at the east (rear) of the lot along Sullivan Road in a single Parking Area.

13. The City Engineer finds that on average, the eight (8) homes would generate ten (10) trips/day/home or approximately 80 new trips that will be absorbed by Sullivan Road and Park Avenue. The additional trips will not cause additional congestion except during holiday weekends and special events when there is existing congestion. There is no local remedy that this development can provide to alleviate the existing, holistic problem.

14. A Parking Area of five (5) or more spaces is a Conditional Use in the HRM zoning district.

15. The applicant will have to accommodate the necessary utility capacity for a functioning project. The applicant is responsible for making these necessary arrangements. The applicant shall also be accountable for working with the many utility companies and City Engineer related to utility capacity. The utility capacity shall not adversely affect the project in a way that causes an unreasonable aesthetic look and feel. Storm water run-off has already been addressed as part of the overall development of the site.

16. Emergency vehicles can easily access the project off Park Avenue and/or Sullivan Road and no additional access is required.

17. The applicant requests that most of the direct access to the site come from Sullivan Road. The applicant is proposing a total of three (3) parking spaces accessible from Park Avenue and nine (9) parking spaces accessible from Sullivan Road.

18. The applicant proposes to provide internal vehicular access from Park Avenue and Sullivan Road. A pedestrian path will straddle the existing interior lot line between 1450

and 1460 Park Avenue and provide a pedestrian connection between Park Avenue and Sullivan Road.

19. The applicant has minimized the visual impacts of the nine (9)-car Parking Area along Sullivan Road at 1450-1460 Park Avenue by providing a fenced trash enclosure along the north property line, a vegetated berm between the Parking Area and Sullivan Road, and a vegetated side yard along the south property line.

20. By constructing six (6) single-family residences behind the existing historic houses, the applicant has significantly reduced the mass and scale of the development. They have maintained the traditional orientation of buildings along the Park Avenue right-of-way. By concentrating the uncovered Parking Area along Sullivan Road they have reduced the mass that would have been created on the lot by creating a covered parking structure.

21. There are no open space requirements for this site as the applicant is proposing to construct single-family homes, not a multi-unit dwelling. The total amount of open space on this lot is proposed to be approximately 10,160 square feet of open space or 55% of the combined lots.

22. No signs and lighting are associated with this proposal. All future lighting will be subject to the LMC development standards related to lighting and will be reviewed for compliance with the LMC and Design Guidelines at the time of the building permit review. Any existing exterior lighting will be required, as part of this application, to be brought up to current standards.

23. The physical design of the proposed Parking Area and development is compatible with surrounding Structures in mass, scale, style, design, and architectural detailing.

24. The proposed use does not provide noise, vibration, odors, steam, or other mechanical factors that are not already associated within the HRM District. The location of the Parking Area at the back of the lot along Sullivan Road and the vegetated berm will mitigate the associated vehicles from the view of the neighborhood.

25. Trash storage and recycling pick areas will be located on the rear (south) elevation of the new houses. Trash collection will occur along Sullivan Road.

26. Expected ownership of the entire project is anticipated as a single entity until the applicant files a Condominium Record of Survey to be able to sell each private unit individually.

27. The site is not located within the Sensitive Lands Overly District. There are no known physical mine hazards. The site is within the Soils Ordinance Boundary and the site will have to meet the Soils Ordinance. The site is not on any steep slopes and the proposal is appropriate for its topography. Storm water runoff from Parking Area has been addressed as part of the overall development of the site.

28. Expected ownership of the entire project is anticipated as a single entity until the Condominium Plat has been recorded, enabling the applicant to sell each private unit individually. Following the sale, these will be deed-restricted affordable housing units.

29. Per LMC 15-2.4-3, the Planning Director shall review any Conditional Use permit (CUP) Application in the HRM District and shall forward a recommendation to the Planning Commission regarding compliance with the Design Guidelines for Park City's Historic Districts and Historic Sites and Chapter 5. The proposed design of the six (6) new single-family dwellings meets the Design Guidelines for Park City's Historic Districts and Historic Sites.

30. The applicant is not proposing to alter the Historic Structure to minimize the residential character of the building; rather, the applicant is proposing to remove non-historic additions on the historic house, construct a new addition, and restore the existing historic structure. The proposed Parking Area along Sullivan Road is also consistent with the Design Guidelines as the guideline encourage locating Parking Areas in rear yards where they do not detract from the historic character of the primary right-of-way.

31. The new buildings and addition to the historic structure will be in scale and compatible with existing historic buildings in the neighborhood. Larger masses will be located to the behind the historic structure to minimize the perceived mass from the street.

32. By constructing the six (6) single family residences behind the historic houses, the applicant has significantly reduced the mass and scale of the development as viewed from Park Avenue. The small scale of these new houses is consistent to that of the historic structures. The low height of each house and the separation between the houses minimizes their visibility and allows the historic structure to remain the focal point of the project.

33. Parking requirements of Section 15-3 will be met. The required amount of parking for six (6) new single family homes is twelve (12) spaces. The applicant will provide three (3) parking spaces accessible from Park Avenue and nine (9) parking spaces accessible from Sullivan Road.

34. All yards are designed and maintained in a residential manner. Existing mature landscaping shall be preserved as possible.

35. As the property is surrounded by residential uses and no commercial uses are proposed, therefore the applicant is not providing fencing and screening between along common property lines.

36. All utility equipment is proposed to be located underground.

37. General statement about consistent with the GP.

38. The staff findings in the Analysis section of this report are incorporated herein.

Conclusions of Law – 1450-1460 Park Avenue – CUP

1. The CUP, as conditioned, is consistent with the Park City Land Management Code.
2. The proposed use, as conditioned, will be compatible with the surrounding structures in use, scale, mass and circulation.
3. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 1450-1460 Park Avenue – CUP

1. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The plan shall include phasing, timing, staging, and coordination of construction with adjacent projects to address mitigation of neighborhood impacts due to the volume of construction in this neighborhood.

2. City Engineer review and approval of all construction, including grading, utility installation, public improvements and storm drainage plans, and all construction within the ROW, for compliance with City standards, is a condition precedent to building permit issuance.

3. Snyderville Basin Water Reclamation District (SBWRD) review and approval of the utility plans for compliance with SBWRD standards and procedures, is a condition precedent to building permit issuance. A 21 foot wide utilities easement has been dedicated to SBWRD along the shared property line of 1450-1460 Park Avenue.

4. A final landscape plan shall be submitted for approval by the Planning Department and the landscaping shall be complete prior to issuance of a final certificate of occupancy for

the project. The landscape plan shall provide mitigation of the visual impacts of the driveways, parking areas, and mechanical equipment.

5. The applicant shall dedicate façade preservation easements to the City for the historic structures at 1450 and 1460 Park Avenue following their restoration and prior to sale of the historic buildings to a private property owners.

6. The plat amendment to combine Lots 1 and 2 of the Retreat at the Park Subdivision, located at 1450-1460 Park Avenue shall be recorded else this CUP approval for a Parking Area of nine (9) parking spaces along Sullivan Road is void.

7. The HOA shall create and enforce a parking plan to be approved by the City Planning Director and City Engineer prior to issuance of certificates of occupancy that addresses the following:

a. No more than 2 cars allowed per unit
b. The HOA shall maintain signed and striped ADA parking (if required)
c. Length of time a vehicle can be parked without moving
d. Restrictions on vehicle size to prevent semis, work trailers, storage units (PODs), etc. in designated parking areas
e. Snow removal restrictions
f. Determine if parking spaces are assigned to individual owners or units
g. Signs
h. Fair tie-breaker and changes to plan clause
i. Signs

8. The applicant is responsible for providing an updated landscape plan as part of the building permit application. Any significant vegetation that needs to be removed shall be replaced in-kind or a multiple of trees of the same caliper shall be provided to match the diameter of the existing tree. The updated landscape plan shall incorporate fruit trees and lilac bushes, consistent with the current vegetation that exists on site. If possible, the applicant will preserve the lilac bushes.

9. Existing mature landscaping shall be preserved per a tree preservation plan submitted by a certified arborist and approved by the City prior to issuance of a building permit.

10. All ground-level equipment shall be screened from view using landscape elements such as fences, low stone walls, or perennial plant materials.

11. All parking areas and driveways shall be screened in order to visually buffer off-street parking areas from adjacent properties and the primary rights-of-way.

12. All parking area signs shall be approved by the Planning Department prior to installation.

13. Any new exterior lighting features shall be reviewed and approved by the Planning Department prior to installation. Exterior lighting features shall be compatible to the building's style, period, and materials, but shall also be down-directed and shielded.

14. All Standard Project Conditions shall apply.

Findings of Fact – 1450-1460 Park Avenue – Condominium plat

1. The property is located at 1450-1460 Park Avenue in the Historic Residential-Medium Density (HRM) District.

2. The subject property consists of Lots 1 and 2 of the Retreat at the Park Subdivision approved by the City Council as Ordinance 07-20 and recorded at Summit County on August 16, 2007.

3. On December 8, 2015, the Planning Department received two Historic District Design Review (HDDR) applications for the rehabilitation and relocation of the historic house at 1450 and 1460 Park Avenue. The HDDR applications were approved on November 21, 2016.

4. On February 3, 2016, the Historic Preservation Board (HPB) approved the material deconstructions for 1450 and 1460 Park Avenue. The relocation of the house at 1450 Park 8'6" to the west and the house at 1460 Park 5'5" to the west towards Park Avenue was approved by the HPB on March 2, 2016.

5. On July 13, 2016, the Planning Department approved Conditional Use Permits (CUP) to allow access off Sullivan Road.

6. On March 20, 2017, the Planning Department received a Condominium Record of Survey application for the Retreat at the Park Condominiums; it was deemed complete April 14, 2017.

7. The property owner proposes to record a Condominium Record of Survey that creates a total of eight (8) units.

8. A condominium is not a type of use but a form of ownership.

9. The proposal complies with the allowed uses in the HRM District.

10. Together, Lots 1 and 2 of the Retreat at the Park Subdivision contain 18,294.43 square feet. This is greater than the minimum lot size required for eight (8) dwelling units which is 9,625 square feet.

11. The minimum lot width in the HRM District is 37.50 feet; together, Lots 1 and 2 are 108.25 feet in width.

12. The required front yard setback is 15 feet in the HRM District; the applicant is providing a 15 foot front yard setback.

13. The required rear yard setback is 10 feet in the HRM District; the applicant is proposing a 30 foot setback.

14. The required side yard setback is 5 feet in the HRM District; the applicant is proposing 5 feet along the north side yards.

15. A single-family dwelling is an allowed use in the HRM District.

16. The proposed Condominium Record of Survey Plat is appropriate as the requested form of ownership is not detrimental to the overall character of the neighborhood.

17. This application allows the following residential units to be platted as private ownership:

a. Unit 1450A: 713.1 square feet
b. Unit 1450B: 944.5 square feet
c. Unit 1450C: 944.5 square feet
d. Unit 1450D: 1,170.6 square feet
e. Unit 1460A: 529.2 square feet
f. Unit 1460B: 944.5 square feet
g. Unit 1460C: 944.5 square feet
h. Unit 1460D: 944.5 square feet

18. The total private ownership of this project is 7,235.4 square feet.

19. This application allows the following residential units to be platted as limited common ownership:

a. Unit 1450A: 100.3 square feet
b. Unit 1450B: 139.3 square feet
c. Unit 1450C: 139.3 square feet
d. Unit 1450D: 160.0 square feet
e. Unit 1460A: 124.1 square feet

f. Unit 1460 B: 139.3 square feet
g. Unit 1460C: 139.3 square feet
h. Unit 1460D: 219.0 square feet

20. The application allows for 1,160.6 square feet of limited common area.

21. This application allow for 12,736.3 square feet in common area.

22. The proposed Record of Survey consists of common area, private residential, limited common residential, and private commercial.

23. The exterior and boundary walls, floor joists, foundations, roofs, mechanical areas, utility chase, etc. are to be platted as common space.

24. The site is not located within the Sensitive Lands Overly District. There are no known physical mine hazards. The site is within the Soils Ordinance Boundary and the site will have to meet the Soils Ordinance. It is also located in FEMA flood zone A.

25. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 1450-1460 Park Avenue – Condominium Plat

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

Conditions of Approval – 1450-1460 Park Avenue – Condominium Plat

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code,

and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the plat at the County within one year from the date of City Council approval and after the homes are completed to ensure that the condo plat reflects the built conditions. 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. Required public improvements and landscaping, as applicable, shall be completed at the time of conversion or security provided to ensure completion as provided by ordinance.

4. The applicant shall require façade preservation easements to the City for the historic structures at 1450 and 1460 Park Avenue following their restoration and prior to sale of the historic building to private property owners.

5. The property is located within the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) boundary. Prior to building permit issuance, a soils management plan must be submitted and final construction must comply with the Soils Ordinance.

6. The applicant shall show and label their easement with Snyderville Basin Water Reclamation District (SBWRD) on the condo plat amendment.

7. A plat note shall be included indicating that the parking spaces off of Park Avenue are for the use of all residents within the condominium development.

6. **Land Management Code (LMC) amendments - Administrative and substantive amendments to the Park City Land Management Code, including, but not limited to amendments to address Utah State Code modifications specifically amending Land Management Code Title 15 Chapter 1, Section 18 Appeals and Reconsideration Process; Title 15 Chapter 11 Section 10 Park City Historic Sites Inventory (Council adoption of properties designated on the Historic Sites Inventory); Title 15 Chapter 11, Section 11 Design Guidelines for Park City's Historic Districts and Historic Sites; Title 15, Chapter 2.25 Historic Sites Overlay Zone (new overlay zone for sites on the Historic Sites Inventory; and Title 15- Chapter 13 Design Guidelines (adopting new chapter to codify the existing Design Guidelines into the Land Management Code).**
(Application PL-17-03588)

Director Erickson stated that the majority of these LMC Amendments were mandated by the 2017 State Legislature. He commented on policy implications and noted that the Design Guidelines would now be included in the Code rather than be a separate document. The list of houses on the HSI would also be in the Code. The intent is to make it easier for the public to recognize what is or is not on the Inventory. Other amendments include a few changes to the appeal process to the Historic Preservation Board.

Planner Grahn reported that the Staff report was re-published this morning. The only change was to add asterisks to 569 Park and 1302 Norfolk. The HPB had designated them as historic and they are listed on the HSI. However, due to pending appeals, those homes may be removed in the future.

Chair Strachan asked how the election takes place on the appeal. He understood that in the event of a historic preservation appeal, the person could elect to have it heard by either the Board of Adjustment or the City Council. He wanted to know how that election occurs.

Assistant City Attorney McLean replied that it was required by State Code and Chair Strachan had raised a good point. She recommended adding a sentence stating that at the time of submitting the appeal, the election needs to take place. Chair Strachan believed that without that sentence it leaves it open for someone to say that they did not know that the City Council could have heard their appeal. Commissioner Campbell concurred.

Chair Strachan assumed that most of the language was taken from either case law or the new legislation. Assistant City Attorney McLean replied that almost all of it was taken from the new legislation. These amendments were the most important ones to implement as quickly as possible.

Commissioner Joyce referred to page 399, (B) Procedure for Designating Sites, and read "It is hereby declared that all Buildings (main, attached, detached or public), Accessory Buildings, and/or Structures within Park City, which City Council considers comply with the criteria found in Sections 15-11-10(A)(1) or 15-11-10(A)(2) are determined to be on the Park City Historic Sites Inventory". He did not think it read like an actual sentence and asked if a word was missing. Director Erickson suggested striking "comply with" and replace it with, "…which City Council considers to be in compliance with Sections 15-11-10(A)(1) or 15-11-10(A)(2) are determined to be on the Park City Historic Sites Inventory".

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation for the various LMC Amendments pursuant to the attached draft ordinance and as amended.

Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Community Development Director, Anne Laurent, addressed the comments regarding 1450-1460 Park Avenue. She completely respects the perception that the timing caused on the project at 1450-1460. She assured the Planning Commission that the next City project is Woodside Park, which is a Master Planned Development. She believed it would come forward in a format where the Planning Commission would see it early rather, than how this process unfolded. Ms. Laurent stated that a lot of work went into 1450-1460 Park Avenue to make sure it was Code compliant and a lot of money was spent to get it right.

The Park City Planning Commission Meeting adjourned at 7:20 p.m.

Approved by Planning Commission: _____