

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC BUILDING
MARCH 22, 2017

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Melissa Band, Preston Campbell, John Phillips, Laura Suesser,
Doug Thimm

EX OFFICIO:

Bruce Erickson, Planning Director, Kirsten Whetstone, Planner; Ashley Scarff, Planner;
Makena Hawley, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

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

ADOPTION OF MINUTES

March 8, 2017

MOTION: Commissioner Thimm moved to APPROVE the Minutes of March 8, 2017.
Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Erickson reported that the appeal of the Planning Commission action for the
special events facility at the Kimball Garage will be heard by the City Council on March 30,
2017.

The Staff was preparing for the next Treasure Hill meeting on April 12, 2017.

Assistant City Attorney McLean noted that in the past, a member from the Planning Commission attends the City Council meeting when their action is being appealed. However, it is not mandatory. Commissioners Phillips and Suesser offered to attend.

Board Member Band disclosed that she was a Verizon customer, however, it would not affect her decision.

Commissioner Member Band stated that should be out of town for the April 12th meeting. Chair Strachan announced that he would be out of town on April 12th as well. Commissioner Suesser stated that she would attend the meeting on April 12th, but she would be absent from the meeting on April 26th.

Commissioner Suesser disclosed that she would be recusing herself from the Intermountain Health Care item on the agenda this evening.

CONSENT AGENDA

1. 1335 Lowell Avenue – Conditional Use Permit (CUP) application for the installation of telecommunication facilities on the rooftop, and within the parking garage, of the Lowell Condominiums. (Application PL-17-03458)

This item was pulled from the Consent Agenda for revisions to the conditions of approval.

2. 280 Daly Avenue – Steep Slope Conditional Use Permit (SS CUP) application for the construction of a new single-family home with at least 200 square feet of the Building Footprint proposed to be built upon an existing slope of 30% or greater. (Application PL-17-03423)

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

MOTION: Commissioner Phillips moved to APPROVE the Consent Agenda.
Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 280 Daly Avenue

1. On January 3, 2017, the Planning Department received an application for a Steep Slope Conditional Use Permit (CUP); the application was deemed complete on January 19, 2017.

2. The subject property is located at 280 Daly Avenue, Lot 1 of the Washington Mill Subdivision.
3. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
4. The lot is currently vacant, and the applicant is proposing to construct a new single-family home with a proposed footprint of 1,672 square feet.
5. A single family dwelling is an allowed use in the HR-1 District.
6. The lot contains 10,522 square feet. It is an uphill lot with a relatively flat portion at the front near Daly Avenue with an approximate grade of 13 percent (13%). The west and southwest (rear of structure) corner of the footprint is proposed in an area with grades ranging from 80-100 percent (80-100%). The rear of the lot slopes steeply upward, but will remain undeveloped due to the proposed design of the structure.
7. A Historic District Design Review (HDDR) application for a single-family dwelling is currently under review.
8. Access to the property is from Daly Avenue, a public street.
9. Two (2) off-street parking spaces are proposed on site. The applicant is proposing a double-car garage that is recessed under a cantilevered deck on the front façade.
10. The neighborhood is characterized by a mix of historic and non-historic residential structures, single family homes, and duplexes.
11. The Washington Mill Subdivision plat includes a note that restricts Maximum House Size to 2,500 square feet.
12. The proposal will create a single-family dwelling with a total floor area of approximately 4,220 square feet, including all garage, basement, and exterior wall areas. Based on Land Management Code definitions, the structure will have a gross residential floor area of 2,461 square feet, which satisfies the plat note.
13. The proposed construction complies with all minimum required setbacks. The minimum front and rear yard setbacks are both fifteen feet (15'). The minimum side yard setbacks are ten feet (10') minimum, 24 feet (24') total.
14. The proposed construction complies with the twenty-seven foot (27') maximum building height requirement measured from existing grade. It also meets the thirty-five foot (35') maximum interior height requirement.
15. The proposed structure has been designed so that its mass is centered on the flattest portion of the lot, in an attempt to avoid the steepest slopes. The structure is wider than it is long, with roof lines that follow the natural contours of the site. The wide façade has been designed with horizontal and vertical steps in the building wall to break up mass along the street front, and to avoid an undesirable wall effect.
16. The large lot size combined with the platted restriction on maximum house size has resulted in a structure that provides greater setbacks to the south and rear of the structure than what is required. The back half of the lot will remain largely undeveloped, preserving a significant amount of vegetation, and avoiding cuts into

extremely steep slopes (grades greater than 100 percent (100%)). The proposed footprint is also below what is typically allowed by the LMC.

17. As required, the applicant submitted both uphill and downhill street views of the site, with and without renderings of the single-family structure in its proposed location. The visuals show that the applicant has made an effort to mitigate potential impacts of the proposed access and building mass and design as much as possible. The structure will be accessed off Daly Avenue, and because the structure is located at the front of the lot, there will be minimal impact from construction of the driveway and garage. This analysis shows that the structure will complement existing conditions along Daly Avenue.

18. The proposed design includes a driveway that is twelve feet (12') in width where it intersects with the right-of-way, and becomes wider as it moves back toward the two-car garage doors, which are approximately 19.5 feet (19.5') in from the front property line. The visual impact of the two garage doors is mitigated by recessing them under a cantilevered deck area. The project architect has stated that the driveway location minimizes the amount of cutting into the bank off the street.

19. Current plans show three (3) retaining structures at the front of the home with the purpose of retaining grade for the driveway and front entry access points. Terraced walls have also been introduced at the rear and south sides of the home to capture two (2) separate patio areas.

20. No lighting has been proposed at this time. Lighting will be reviewed at the time of the HDDR and Building Permit application for compliance with the LMC lighting code standards.

21. The property was posted and notice was mailed to property owners within 300 feet on March 8, 2017. Legal notice was also published in the Park Record in accordance with requirements of the LMC on March 8th.

22. The property is located outside of the Soils Ordinance boundary.

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

Conclusions of Law – 280 Daly Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6.

2. The CUP, as conditioned, is consistent with the goals and objectives of the Park City General Plan.

3. The proposed use will be compatible with the surrounding structures in use, scale, mass, and circulation.

4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 280 Daly Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The CMP shall include language regarding the method of protecting adjacent structures.
3. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. This approval will expire on March 22, 2018, if a building permit has not yet been issued by the building department, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Director.
5. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on March 22, 2017, and the Final HDDR Design.
6. All retaining walls within any of the setback areas shall not exceed more than six feet (6') in height measured from final grade, except that retaining walls in the front yard shall not exceed four feet (4') in height, unless an exception is granted by the City Engineer per the LMC, Chapter 4.
7. Modified 13-D residential fire sprinklers are required for all new construction on this lot.
8. All exterior lighting, on porches, decks, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way and shall be subdued in nature. Light trespass into the night sky is prohibited. Final lighting details will be reviewed by the Planning Staff prior to installation.
9. Construction waste should be diverted from the landfill and recycled when possible.
10. All excavation work to construct the foundation shall start on or after April 15th and be completed on or prior to October 15th. The Planning Director may make a written determination to extend this period up to 30 additional days if, after consultation with the Historic Preservation Planner, Chief Building Official, and City Engineer, he determines that it is necessary based upon specific site conditions such as access, or lack thereof, exist, or in an effort to reduce impacts on adjacent properties.
11. The property is located outside the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance to State and Federal law.
12. On-site storm water detention shall be required.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 1335 Lowell Avenue – Conditional Use Permit (CUP) application for the installation of telecommunication facilities on the rooftop, and within the parking garage, of the Lowell Condominiums. (Application PL-17-03458)

Planner Ashley Scarff reviewed the request for a conditional use permit for Verizon Wireless to establish a new telecommunication facility. She explained that Telecommunication Facilities can be amended administratively if they are already established; however, this was a new location on top of the Lowell Condominium at 1335 Lowell Avenue. The intent is to provide improved capacity at the base of PCMR.

Planner Scarff requested to amend the Conditions of Approval in the Staff report by striking Condition #2, which states, "Panel Antennas shall be no more than five square feet (5 sq. ft.) in Area per face". She explained that in this situation all rooftop equipment would be completely screened from the adjacent properties. Limiting to that area would impact Verizon's ability to complete their project. Planner Scarff also added a sentence to Condition of Approval #3 stating that the rooftop equipment shall not exceed the height of the antenna skids.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Band moved to APPROVE the Conditional Use Permit application for the installation of Telecommunication Facilities on the Rooftop and within the parking garage of the Lowell Avenue condominiums, in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval as amended by the Staff. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Director Erickson remarked that the telecommunication industry is increasing and the Staff is starting to relook at the Code with respect to the proliferation of antennas, small cells, densification antennas, underground transmission devices, and franchise agreements for connection to fiber.

Commissioner Thimm liked how the one they just approved is completely screened. He commended the Planning Department if they had any part in working with the applicant to accomplish that. If they continue to look at this in the future, screening would be an important factor.

Planner Scarff stated that two antenna proposals would be coming before the Planning Commission next month. She believed that the Industry has improved on ways to disguise the antennas. In this case screening was part of Verizon's proposal and she had nothing to do with it.

Findings of Fact – 1335 Lowell Avenue

1. On January 31, 2017, the Planning Department received an application for a Conditional Use Permit (CUP) to allow Verizon Wireless to establish a new Telecommunication Facility on the roof and within the underground parking garage of The Lowell Condominiums, located at 1335 Lowell Avenue. The application was considered complete on February 22, 2017.
2. The subject property falls within the Recreation Commercial (RC) District.
3. The Land Management Code (LMC) states that, within the RC District, Telecommunication Antennas are a Conditional Use, subject to LMC Section 15-4-14, Supplemental Regulations for Telecommunication Facilities, in addition to the standard Conditional Use review criteria of Section 15-1-10(E).
4. The proposed rooftop equipment will consist of two (2) screened antenna skids that will match the building wall of The Lowell Condominiums to mitigate visual impact. These screened skids will have a ten foot (10') setback from the roof edge, and the screen walls will be 9 feet, 6 inches (9', 6") in height above the flat roofline. The skids will contain nine (9) total panel antennas, nine (9) remote radio heads to provide service to the antennas, and three (3) MOVP boxes. All cable chases will also be painted to match the building's exterior.
5. The necessary ground equipment will be located within the first sub-level of the underground parking garage of The Lowell. The applicant proposes to screen off a 121.5 square foot area located behind a stairwell in the parking garage, which is designated as having Limited Common ownership on the plat. The HOA has consented to this project, and indicated that the space is currently used by cleaning crews for laundry purposes. This is not designated for parking on the plat. No parking will be eliminated with this project.

6. Staff finds that the project, as proposed and conditioned, meets all requirements related to setbacks, height, and design found in LMC Section 15-4-14, Supplemental Regulations for Telecommunications Facilities.

7. On March 8, 2017, the property was posted and notice was mailed to affected property owners within 300 feet. Legal notice was also published in the Park Record on March 8th.

8. This application has been reviewed under Land Management Code Section 15-1-10 (E).

9. The Findings in the Analysis Section are incorporated herein.

Conclusions of Law – 1335 Lowell Avenue

1. The application satisfies all Conditional Use Permit review criteria as established by the LMC's Conditional Use Review process (§15-1-10(E), Criteria 1-16);
2. The Use, as conditioned, is compatible with surrounding structures in use, scale, mass, and circulation;
3. The Application complies with all requirements of the LMC; and
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 1335 Lowell Avenue

1. The scope of this approval includes two (2) screened antenna skids on the rooftop of The Lowell Condominiums that will contain nine (9) total panel antennas, nine (9) remote radio heads to provide service to the antennas, and three (3) MOVP boxes, as well as associated cable chases and ground equipment, which will be located behind a stairwell in the first sub-level of the underground parking garage.
2. The rooftop antenna skids shall be set back ten feet (10') from the roof edge, and the screen walls shall not exceed 10' in height, measured from the plane of the flat roofline. the rooftop equipment shall not exceed the height of the antenna skids
3. The antenna skids shall be painted to match the building wall of the existing condominium building.
4. All necessary cable chases shall also be painted to match the existing building.

5. All equipment located within the underground parking garage shall be screened off to separate uses, and to ensure the health and safety of the parking garage users.

6. Signs shall only be installed on site if necessary for the health and safety of the general public.

7. Prior to installing the equipment, the applicant must apply for and procure a Building Permit from the Building Department

2. 1003 Woodside Avenue – A plat amendment requesting to combine the property into one lot of record. 1003 Woodside Avenue consists of Lot 1 and Lot 2 of Block 9, Section 16 of Snyder’s Addition to Park City. The non-historic structure sits over Lots 1 and 2. (Application PL-17-03473)

Planner Makena Hawley reviewed the request for a plat amendment to combine Lots 1 and 2 of the Block 9, Section 16 of Snyder’s Addition to Park City. The Staff supports this request because it would remove a lot line that goes through a house. The applicant would be doing encroachment agreements with the City to address the encroachments in the right-of way. They would also be given snow storage easements.

Planner Hawley remarked that the plan is to tear down the house and build a new house. Unless the lot line is removed, the applicant would not be able to do any reconstruction or additions.

Chair Strachan asked where this home fits into a previous discussion about the inventory of Significant and Historical and the reclassification of structures based on the mishap on Park Avenue that occurred months earlier. Planner Hawley stated that the existing house was not historic. It was built in 1967 and was never considered for Determination of Significance by the Planning Department. Director Erickson asked if it could be considered a skier house. Planner Hawley replied that it was an A-frame shape; however, she had done the research and spoken with the Preservation Planners, and at this time there was no intent of doing a Determination of Significance.

Chair Strachan clarified that he was referencing a demolition that was allowed on Park Avenue that sparked a review of how the City handles demolitions of not only historic homes, but also non-historic homes which have some level of significance. Commissioner Phillips understood that it now requires engineering before demolition can be considered.

Director Erickson explained that last year the LMC was revised to change the criteria for structures in the Historic Districts, and they added a new classification of Contributory structures. However, there is no prohibition against the demolition of a Contributory structure and Contributory structures are not listed on the Historic Sites Inventory. Director Erickson emphasized that at this time there was not a lot of regulatory control on this type of structure, and the City Council has not indicated an increased level of management. Director Erickson stated that the Planning Department would prefer to curate the ski era homes and be able to tell the story going forward. In the meantime, when a building on Park Avenue fell over they added two clauses. One was the Engineering clause that Commissioner Phillips had referenced, and the second was criteria on steep slopes requiring that excavation for raising a building could not be done between October 15 through April 15. He pointed out that this home at 1003 Park Avenue was not a historic site.

Planner Hawley stated that through the HDDR process, before they demolish the structure the applicant is asked to show how the house looked and to provide the designs, the plans, and the elevations.

Chair Strachan wanted to know who decides whether a structure is Contributory. Director Erickson recalled that a 40-year threshold was the only criteria. He reiterated that currently there is no regulatory control on a Contributory building. Chair Strachan asked if anyone had tried to classify this structure as Contributory. He understood that the classification may not have any repercussions on what could be done with the home. If they have a new classification, he thought they should try to classify the structures to see if it fits.

Commissioner Thimm pointed out that the Planning Commission was only being asked to approve a lot consolidation. Chair Strachan stated that if the City was supposed to put this building under the Contributory classification procedurally under the Code and it was not done, they should catch that error. Commissioner Thimm believed that issue was separate from consolidating two lots where the building crosses the property line. Chair Strachan was unsure what the Code language actually says about designating the classification so he was not able to determine whether one affects the other.

Commissioner Suesser noted that the Staff reports states that the applicant intends to demolish the home. It also states that it is a non-historic structure; so that would need to be redefined. Chair Strachan agreed that it may be an exercise in futility if being classified as Contributory results in absolutely no change in the process.

Commissioner Band understood that the Staff has the right to ask for plans and other items to document the history of the home.

Assistant City Attorney McLean pulled up the Code 15-11-10 and read that a Contributory structure is eligible for historic district grant funding. It also says that they are eligible for demolition. Ms. McLean thought the Contributory classification was adopted with the idea of being a middle section, and a means of talking to the homeowners before a structure is demolished to offer incentives such as grant funding to keep the structure.

Director Erickson noted Planner Hawley had discussed this with the Historic Preservation Planners, Anya Grahm and Hannah Tyler, and they would have clearly informed Director Erickson or Planner Hawley if they thought a different process should be followed. Ms. Hawley had done her due diligence and if she had not already spoken with the Preservation Planners he would be more willing to relook at this. He asked Planner Hawley if her conversation with the Preservation Planners was noted in the Findings. Planner Hawley replied that the Finding only stated that it was not a historic site.

Chair Strachan noted that Section 15-11-10 says, "The Historic Preservation Board may designate sites". He thought the HPB need to make that decision. Chair Strachan pointed out that the definition of a Contributory site is that it is 40 years or older and meet one of two criteria. He thought the most applicable was Criteria 2, "It is important in local, regional, history architecture or culture associated with at least one era of historic importance to the community." Chair Strachan remarked that this structure was the classic ski era architecture.

Director Erickson referred to Commissioner Thimm's comment that this was a subdivision application. The Planning Commission could add a condition of approval requiring that the building be reviewed for a Contributory site. He did not believe the HPB needed to be involved until there is a determination of Contributory. Director Erickson stated that it would be up to him to make an application to the HPB to list the house. He did not believe there were any Contributory structures listed on the HSI.

Director Erickson asked if the Planning Commission was willing to proceed with the subdivision with Planning Department review for the Contributory nature of the structure. Chair Strachan was comfortable with that approach.

Assistant City Attorney McLean stated that they could also add a Finding of Fact stating that the structure is over 40 years old and may qualify as Contributory. Chair Strachan stated that if it is black and white he was comfortable with the Staff could make that determination. However, if it is on the edge or there is any question, he preferred that it go to the HPB for a determination.

Chair Strachan thought the condition of approval should read, "The Staff shall review it pursuant to 15-11-10, A-3; and if necessary recommend Historic Preservation Board review." Assistant City Attorney McLean suggested a Finding linked to the Condition of Approval stating that "The home is more than 40 years old and built in 1967, and based on its age it may qualify to be Contributory. Chair Strachan suggested adding that it may have important local or regional history or architecture, and be associated with an Era of historic important.

Commissioner Suesser asked if the City right-of-way was just on the stair side. She noted that Finding #14 describes an encroachment on the northwest property line into the City right-of-way. Planner Hawley indicated the encroachment. Everything on the street side is the City right-of-way.

Chair Strachan opened the public hearing.

Cheryl Sosnick, a resident at 1007 Woodside, stated that he originally intended to voice her objections due to the issues that the Commissioners had raised. However, after hearing their discussion she was comfortable with the suggested approach and thanked them for going in that direction. Ms. Sosnick regretted that in the past the City had not treated the historic ski era A-frames in a loving manner. She cried when the historic ski era A-frame at 1031 was demolished in a day and a McMansion was built. Having lived next door to this particular ski era A-frame since 1986, she has become fond of it. Ms. Sosnick commented on the ski era A-frames. She is a volunteer at the Museum and she gives walking tours on Main Street. One of the things that she stresses and that the tourists really appreciate is the variety of buildings up and down Main Street from many different eras. It combines to make a very unique and loving Main Street, and she would be sad if all of the buildings on Main Street looked the same. Ms. Sosnick felt the same was true for the residential areas. She thought it was important to keep the old A-frame houses. The house next door to her is not beautiful, but it is one of the few remaining, recognizable ski era A-frames. The others have either been torn down or remodeled. Ms. Sosnick appreciated the Planning Commission for sending this back for review. She pointed out that the house was built in 1967 which makes it 50 years old this year. She was unsure whether that would move it to the historic category and asked them to keep that in mind.

Chair Strachan encouraged Ms. Sosnick to follow the website so she would know when this item is scheduled to either come back to the Planning Commission or placed on the HPB agenda in the future. He understood that the people who want to protect the A-frames are a silent and often unheard minority, but they do exist. He encouraged public comment and appreciated that Ms. Sosnick came to speak this evening.

Chair Strachan closed the public hearing.

Director Erickson summarized that the direction from the Planning Commission is for the Staff to review the house against the criteria for Contributory designation. The added condition of approval would give him the authority to review it as the Planning Director. If anything is questionable, it could go to the HPB. Director Erickson pointed out that regardless of that outcome, the HDDR is publicly noticed and the lot is posted. If they have to go through a Determination of Significance, the Staff would not begin the HDDR and it would be scheduled on the HPB agenda.

Director Erickson clarified that the Planning Commission could forward a recommendation to the City Council, and in the meantime the Planning Department would review it as a Contributory site, or under the Procedure for Designating Sites to the Historic Sites Inventory.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for a plat amendment at 1003 Woodside Avenue, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 100 Woodside

1. The property is located at 1003 Woodside Avenue.
2. The property is in the Historic Residential (HR-1) District.
3. The subject property consists of Lot 1 and Lot 2, Block 9 of Snyders Addition to Park City. The proposed plat amendment creates one (1) lot of record.
4. The Plat Amendment removes one (1) lot line going through the existing structure.
5. The proposed Plat Amendment combines the property into one (1) lot measuring 3,750 square feet.
6. A single-family dwelling is an allowed use in the District.
7. The minimum lot area for a single-family dwelling is 1,875 square feet. The proposed lots meet the minimum lot area for single-family dwellings as well as for a duplex which is a conditional use in the HR-1 District.
8. The proposed lot width is width is 50 feet along Woodside Avenue.
9. The minimum lot width required is twenty-five feet (25'). The proposed lot meets the minimum lot width requirement.
10. The maximum building footprint allowed based on proposed lot size of 3,750 square feet is 1,519 square feet. The existing house equates to a footprint of approximately 880 square feet.

11. The minimum front/rear yard setbacks are ten feet (10'); the minimum total front/rear yard setbacks are twenty feet (20'). The existing house has a front yard setback of 23 feet and a 15 foot rear yard setback.
12. The minimum side yard setbacks are five feet (5'); the minimum total front/rear yard setbacks are 10 feet. The existing house has a front yard setback of 23 feet and a 15 foot rear yard setback. The existing structure does not meet the north side yard setback. The structure has not been deemed legal non-complying, no research could be found on past building permits. The south side yard setback is met utilizing 9 feet to the property line.
13. The degree of non-conformity isn't increased by the plat amendment
14. There is a stone retaining wall along the northwest front property line that encroaches into the City Right of Way. There are also stone retaining walls, railroad ties and a slat wood fence along the south side yard property line encroaching into the City Right of Way.
15. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.
16. The existing house was built in 1967.

Conclusions of Law – 1003 Woodside Avenue

1. There is good cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding 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 – 1003 Woodside Avenue

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A ten foot (10') wide public snow storage easement along the front (Woodside Avenue) as well as a five foot (5') public snow storage easement along the side (10th

street) property lines to address street frontages will be required.

4. A five foot (5') wide utility easement may be required along Woodside Avenue if the existing storm drain is found to be crossing the property.

5. Prior to plat recordation, the property owner shall resolve the encroachment of the stone retaining walls over the front (east) property line into the City Right-of-Way (ROW) by either removing the retaining walls or entering into a recorded agreement with the City Engineer.

6. Prior to plat recordation, the property owner shall resolve the encroachment of the stone retaining walls, the railroad ties, and the slat wood fence over the side (north) property line into the City Right-of-Way (ROW) by either removing them or entering into a recorded agreement with the City Engineer.

7. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final Mylar prior to recordation.

8. New construction shall comply with Land Management Code Section 15-2.2 regarding setbacks, building height, building envelope, building footprint, etc. and historic district guidelines.

9. Planning Commission requires Staff provide an additional review of the existing home at 1003 Woodside Avenue of Section 15-11-10 (A) -3 and if necessary recommend HPB review due to the possibility that the existing home may possess local or regional history, architecture, engineering, or cultural associated with (A) An era of Historic importance to the community; or (B) Lives of Persons who were of historic importance to the community, or (C) Noteworthy methods of construction, materials, or craftsmanship used during the historic period.

**3. Intermountain Healthcare Amended Master Planned Development (MPD)-
Ratification of Development Agreement – Ratification of Development
Agreement. (Application PL-15-02999)**

Commissioner Suesser recused herself and left the room.

Planner Kirsten Whetstone reviewed the request for a Ratification of the Development Agreement for the Intermountain Healthcare (IHC) approved Master Planned Development, and the two amended approvals. The amended approvals occurred in

October 2014 and January 2016. The action letters were attached to the proposed Development Agreement. Planner Whetstone explained that ratify the Development Agreement memorializes the Planning Commissions' approvals.

Planner Kirsten stated that this was originally under the Annexation Agreement for the Burbidge Annexation. An annexation agreement is harder to amend and it does not capture everything that is specific to the Master Planned Development. One of the conditions of the second approval was to create a Development Agreement that could be ratified by the Planning Commission and recorded. She noted that parts of the Annexation Agreement were linked throughout the Development Agreement.

Planner Kirsten stated that the final revised Agreement was emailed to the Planning Commissioners earlier in the week.

Planner Whetstone reviewed a few changes. The first was in Section 1 under Property. "Lot 4, originally identified for the 28 deed restricted housing units, is identified for public safety uses", and she added "...such as a fire station or other public safety buildings".

Planner Whetstone noted that the second change was in Section 2.5. It did not change specific language but it qualified the section because the LMC states that a Development Agreement must have these specific items. One was the Developer's Obligation. However, the language says, "Developer exactions and agreed upon public dedications". Planner Whetstone had added that language to Section 2.5 so it would conform to the requirements of the LMC.

Planner Whetstone referred to the Water Agreement in Section 7. She noted that they did not have confirmation from the attorney, Tom Bailey, as to whether they satisfied all the water obligations with the Annexation Agreement. Therefore, that language was not included but it could be added if they receive confirmation.

The final change related to Affordable Housing. Planner Kirsten revised the language to clarify that it is subject to the original affordable housing plan mitigation plan, as well as the one that was amended with the Peace House. It collects all of the affordable housing mitigation plans that were subject to the Master Planned Development. Planner Whetstone had also added the notary statement at the end of the Agreement.

Director Erickson clarified that the changes were delivered to the Planning Department and reviewed by the Staff, but they were not included at the time the Staff report was prepared due to a glitch in the new system. The Planning Staff had been reviewing these changes for over a month and the Legal Department had completed their review.

Planner Whetstone noted that a public hearing is not required, but the Planning Commission had the discretion to take public comment. The Staff recommended that the Planning Commission ratify the IHC Development Agreement as revised in Exhibit A that was posted on the website and provided to the Planning Commission via email on March 20, 2017, pursuant to the Findings of Fact outlined in the Staff report.

Morgan Bush, representing IHC, stated that after reading through the changes, he had three suggestions. Under 2.5, the sentence reading, "The following are outstanding developer obligations...." He proposed adding to the sentence additional language stating, "The following are outstanding developer obligations from the Annexation Agreement, the MPD, and the MPD Amendments". He thought the suggested language better clarified because changes since the original annexation agreement were reflected in this list.

Chair Strachan stated that they could make a new paragraph 2.6 and have it say, "The following are outstanding development obligations that are tied to the Annexation Agreement..." Mr. Bush was comfortable with different language as long as the intent was clear. Assistant City Attorney McLean thought Mr. Bush had drafted sufficient language to show the source of those obligations. She also favored Chair Strachan's suggestion to make it a separate paragraph as 2.6. Mr. Bush stated that if they were making it a separate paragraph 2.6, he preferred to say, "The following are the outstanding developer obligations from the MPD and the MPD Amendments". A through D comes from the Annexation Agreement. The new language would be E. Assistant City Attorney McLean preferred to keep the obligations together.

Planner Whetstone clarified the language as "The following are the outstanding developer obligations outlined in the Annexation Agreement, the MPD and amended MPDs".

Mr. Bush questioned the language in D, The Silver Summit Frontage Road Easement. He noted that Finding 19 in the Annexation Agreement said that they were to cooperate with Park City Municipal Corporation. The timing of it was not linked to the certificate of occupancy of any phase of the construction. Ms. McLean stated that she would have to look at the Annexation Agreement before she could comment. He recalled that the City wanted that and the easement was shown on the Second Amended Subdivision Plat. They have agreed that if the City requests, IHC would do the actual dedication and grant that. However, the timing was not tied to anything specific. The City was to decide and work with the County on when or if that frontage road is ever built.

Mr. Bush referred to the Notary for Intermountain Health Care and noted that it should read Vice-President because they do not have Managing Partners.

Assistant City Attorney McLean referred to Finding 19 on page 184 of the Staff report and read the last sentence, "To the extent that the property is adjacent to the Frontage Road to Silver Summit, the petitioner shall cooperate with the City in the dedication of a non-exclusive right-of-way over and across the property to access such frontage road". She suggested that they remove the second part beginning with "and...." and just say "subject to the Annexation Agreement Finding 19". Mr. Bush was comfortable with that revision. Planner Whetstone clarified that once the Hospital and everything else is completed it would still be an obligation in the Annexation Agreement. Mr. Bush stated that it was the reason for putting it on the subdivision plat because it memorialized the agreement in the Annexation. Whenever the City requests, they would go ahead and do the actual dedication.

Chair Strachan stated that he would be more comfortable if the language under D said, "Silver Summit Frontage Road easement as required by Finding 19 of the Annexation Agreement". Mr. Bush and Ms. Mclean were comfortable with that revision.

Chair Strachan stated that typically he is not comfortable with a Development Agreement that appears to be in draft form; however, he realized that they were up against a deadline for having a Development Agreement in place and the delay was partially caused by the City. He would normally support sending this back to the Staff and waiting for a clean copy, but he felt they needed to move forward this evening. Assistant City Attorney McLean was comfortable moving forward. These changes were not real substantive and she had reviewed the highlighted changes last week. The problem is that there was an issue with which version ended up in the Staff report.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Band moved to RATIFY the Intermountain Healthcare Development Agreement to memorialize the Amended MPD, with the additional amendments discussed this evening. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously. Commissioner Suesser was recused.

Findings of Fact – IHC

1. The IHC MPD was approved by the Planning Commission on May 23, 2007, subject

to the Annexation Agreement recorded at Summit County on January 23, 2007.

2. The IHC MPD consists of Lots 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the Intermountain Healthcare Park City Medical Campus / USSA Headquarters and Training Facility Subdivision (IHC/USSA Subdivision), and generally includes an Intermountain Healthcare Hospital of 300,000 square feet (180 Unit Equivalents) located on Lot 1 and Support Medical Office space of 150,000 square feet (150 Unit Equivalents) located on Lots 1, 7, and 10, as well as the Peace House CUP located on Lot 8.

3. The property is generally located on Round Valley Drive west of US 40 and east of Round Valley in the Quinn's Junction neighborhood of Park City.

4. The property is located in the Community Transition (CT) Zoning District.

5. The First Amended Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Subdivision plat was approved by the City Council on October 11, 2007 and recorded at Summit County on May 20, 2008. The first amended plat memorialized various easements and road layouts and adjusted the location of various lots consistent with the approved MPD. The plat consisted of nine lots of record.

6. The Second Amended Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Subdivision plat was approved by the City Council on July 31, 2008 and recorded at Summit County on November 25, 2008. The second amended plat created new Lots 10 and 11 out of the previous Lot 8. Lot 10 was created for the Summit County Health Department and the People's Health Clinic building and Lot 11 was created as a separate lot for IHC as it was located south of Victory Lane. This plat consists of eleven lots of record.

7. Lot 2 of the IHC/USSA Subdivision plat is dedicated as open space.

8. Lot 3 is not part of the IHC MPD and is owned by and the location of the USSA Headquarters and Training Center MPD.

9. Lot 4 was the original location of 28 affordable, deed restricted townhouse units incorporated into the Park City Heights neighborhood during the Park City Heights MPD approval. Lot 4 currently has no designated density and was transferred to Park City.

10. Lot 5 was dedicated and transferred to Park City for future recreation uses and has

no designated density.

11. The density initially designated for Lots 6 and 8 was transferred to Lot 1 with the First Amendment to the MPD. A Conditional Use Permit for the Peace House was approved on Lot 8. Lot 6 currently has no designated density.

12. Lot 7 contains the 25,000 sf of medical support office uses and is also known as Physician Holdings or MOB (Medical Office Building).

13. Lot 9 contains a small Questar gas regulating facility.

14. Lot 10 is the location of the Summit County Health Department and People's Health Clinic utilizing 25,000 sf of support medical office density. Summit County has a ground lease from IHC on this lot.

15. Lot 11 is the one acre lot around Lot 9, owned by IHC and not designated as to use or density.

16. A Third Amended Subdivision plat to subdivide Lot 8 into two lots (Lot 8 and Lot 12) was approved by the City Council on July 21, 2016. Recordation of this twelve lot plat amendment is pending.

17. The Annexation Agreement sets forth maximum building floor areas, development location, and conditions related to developer-provided amenities on the various lots of the IHC/USSA subdivision plat, such as roads, utilities, trails, and affordable housing.

18. A Development Agreement reflecting the approved Master Planned Development and subsequent amendments is required to be ratified by the Planning Commission and recorded at Summit County.

19. A First Amended IHC MPD was approved by the Planning Commission on October 8, 2014, transferring assigned medical support density from Lots 6 and 8 to Lot 1, along with other amendments related to Phase 2 of the Medical Center construction.

20. The Second Amended IHC MPD was approved by the Planning Commission on January 13, 2016, approving administrative corrections to conditions #16 and #17 of the October 8, 2014 First Amended IHC MPD, acknowledging that a Fire Station is an appropriate use within the MPD, as contemplated on Lot 4, allowing the subdivision of Lot 8 into two lots, and allowing the Peace House use on amended Lot 8.

21. One additional item included in the Second IHC MPD Amendment application, regarding additional density for support medical uses, was continued to a date uncertain, and final action on this item submitted with the IHC pre-MPD application has not yet occurred.

22. The January 13, 2016, approved MPD Amendments included the following conditions of approval:

1. All applicable conditions of approval of the IHC/USSA Annexation Agreement shall apply to this MPD amendment.
2. All applicable conditions of approval of the Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Second Amended subdivision plat shall apply.
3. Construction of the Peace House facility on Lot 8 is subject to the Conditional Use Permit approved on January 13, 2016, as well as to all applicable conditions of approval of the MPD, as amended, the Annexation Agreement, and the Subdivision plat. Peace House facility consists of approximately 37,600 square feet of new construction for an emergency shelter for victims of domestic violence; including emergency and transitional housing, support uses (day care, counseling, training, common kitchen and living areas, laundry, storage) and administrative offices.
4. A Development Agreement specifically for the IHC Master Planned Development, as amended, shall be ratified by the Planning Commission within 6 months of final action on the MPD Amendment application.
5. The Development Agreement shall reiterate all applicable requirements of the Annexation Agreement, as well as zoning requirements related to findings, conclusions, and conditions of approval of the MPD, included the approved amendments.
6. The Development Agreement shall include an express reservation of the future legislative power and zoning authority of the City, a copy of the approved MPD plans and any other plans that are a part of the Planning Commission approval, a description of all Developer exactions or agreed upon public dedications, an agreement to pay all specified impact fees; a description of the form of ownership anticipated for the project; and a list and map of all known Physical Mine Hazards on the property.
7. All construction within the IHC MPD is subject to the plat notes and conditions of approval of the Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility amended subdivision plat recorded at Summit County on November 25, 2008, as well as conditions of approval of the IHC MPD, as amended, including amendments to Conditions #16 and #17 of the October 8, 2014 MPD Amendment approval, as described in #8 below.

8. Conditions #16 and #17 of the October 8, 2014 approval of the First Amended IHC MPD shall be amended, and reflected in the Development Agreement, as follows:

- a) Condition #16 shall be deleted.
- b) Condition #17 shall be amended to state the following: The applicant shall submit a parking study as part of an application for the next Medical Center expansion. The study shall include qualified transportation professionals recommendations addressing the potential impact of reduced parking ratios in future phases and a comprehensive program to increase utilization of underutilized parking areas; along with impacts to street intersections out to and including SR-248.

23. The applicant and Staff were waiting for the density issue requested with the Second MPD Amendment application to be considered by the Planning Commission prior to drafting the a Development Agreement. This amendment requires further density discussion and possible Land Management Code amendments, and has been continued to a date uncertain.

24. On October 12, 2016, Staff and the applicant met and the applicant requested that a Development Agreement be ratified for the MPD amendments approved to date.

25. As the 6 month timeframe has passed, based on the January 13, 2016 approval date of the Second Amendment, the applicant requested an extension to the ratification timeframe.

26. On December 14, 2016, the Planning Commission approved an extension to the ratification timeframe to July 13, 2017.

27. A draft Development Agreement consistent with the MPD Amendments approved on October 8, 2014 and January 13, 2016 was prepared and reviewed by the City Legal Department, City Engineer, and Planning Director.

28. Following ratification and approval as to final form by the City Attorney, the Development Agreement will be executed and recorded at Summit County.

29. If final action is taken to approve the request for additional density an amended Development Agreement shall be ratified and recorded per the Land Management Code.

30. The MPD is subject to the amended IHC Housing Mitigation Plan approved by the Park City Housing Authority on February 3, 2017.

31. Development on Lot 8 is subject to the January 13 2016 Peace House Conditional Use Permit, and any approved amendments. There is no assigned Unit Equivalent (UE) density on Lot 8. Density on Lot 8 is related to Affordable Unit Equivalents(AUE) and the Peace House facility.

Commissioner Suesser returned to the meeting.

4. **Request by Deer Crest Associates to amend the Deer Crest Settlement Agreement/Master Planned Development approved on December 29, 1995, to eliminate a required physical disconnect of Deer Hollow Road (aka Keetley Road) at the Slalom Village (aka Deer Hollow) development parcel location. (Application PL-16-03209)**

The Planning Commission previously reviewed this application on February 8, 2017.

Planner Whetstone reviewed the request to amend the Deer Crest Settlement Agreement. The Staff recommended approval of the Master Plan Amendment for Deer Crest, and requested that the Planning Commission forward a positive recommendation to the City Council regarding the Third Amended Deer Crest Settlement Agreement pursuant to the Findings in the Staff report.

Tom Bennett, representing the applicant, stated that the only change since the last meeting was to modify the Amendment to the Settlement Agreement to incorporate the issues that were recommended and discussed at that meeting.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Campbell stated that if there was an agreement and one party wants to change it for their benefit, even if the other party agrees with the change, in order to forward a positive recommendation to the City Council there should be a benefit. He referred to a color coded map and understood that the portion in red was what the applicant wanted to protect. It was the private neighborhood that should remain that way. Commissioner Campbell asked if the gates would serve the same purpose if they were moved to the intersection of the roads shown in blue, green and red. They would still be able to use the green road for deliveries; and at some point in the future, that road could potentially be used by the rest of the City if it was ever necessary.

Commissioner Campbell stated that if the City was being asked to amend the agreement he thought the City should get something in return. Commissioner Campbell clarified that the Planning Commission did not have the authority to negotiate a benefit, but as part of their recommendation they could ask the City Council to negotiate that change.

Mr. Zacaro understood that Commissioner Campbell was suggesting that they move the Queen Esther gate to the intersection of Deer Hollow Road and Deer Crest Estates; and that he was proposing the same for the Jordanelle gate. Commissioner Campbell replied that he was correct. Mr. Zacaro clarified that there are two developments within Deer Crest and others to be built that have restricted gate access. If they follow Commissioner Campbell's suggestion, that access would be located outside of the gates and access to those communities would be open to everyone. Mr. Zacaro noted that people purchases their property with the understanding that the community would be private and gated. He did not believe it would be appropriate for the Master Association to take portions of what is currently the Deer Crest community and open it to traffic.

Commissioner Campbell asked which end it would be accessed from. Mr. Zacaro used the map to indicate the location of 15 townhomes and noted that more would be built. They are currently located within the gate; however, if the gate is moved as proposed by Commissioner Campbell, the area would be open to traffic. In terms of the concerns that were raised at the last meeting regarding opening the road to vehicle traffic during traffic emergencies, Mr. Zacaro was unsure what would be accomplished by moving the gate. The gates are substantial structures and it would be a significant cost to move them. He did not believe the Master Association would be in agreement with moving the gates.

Commissioner Campbell noted that the two communities that his proposal would remove from protection inside the gate could be accessed from Highway 40 or from Queen Esther. Mr. Zacaro answered yes. Commissioner Campbell stated that if the road is broken in half, which the current agreement forces them to do, each community would be forced to come in from one side. Mr. Zacaro replied that the people living in the townhomes could still come from both sides. However, if the disconnect were ever to occur, they would still be inside a gated community. Moving the gates would remove that protection. Commissioner Campbell understood that the idea of the disconnect was that the gates would be temporary and at some points the gates would be taken down and the disconnect would serve the function of keeping traffic from using that as an entry into Park City. He thought the developer wanted to remove the disconnect because of construction access. Planner Whetstone pointed out that the east and west perimeter gates were listed in the settlement agreement as required gates. The settlement talks about uses outside the east perimeter gate and access through the

west perimeter gate. The Queen Esther Settlement Agreement talks specifically about the two gates.

Commissioner Band understood that the disconnect was not required in the beginning because it was only something that could be done in case the gates did not work. The gates were always in the MPD and they were intended to serve a purpose. However, in case the gates did not do serve that purpose, they did not want the traffic coming from Wasatch. If the gates did not work, the road would be disconnected to keep people from using it to get into Lower Deer Valley.

Assistant City Attorney McLean stated that based on the conversation from the last meeting, the City was asking that the “give” would be that the City could use that access for traffic emergencies. Commissioner Campbell clarified that his reason for raising the issue was to give the City more measure of control. Ms. McLean recalled from the last meeting that the majority of the Commissioners did not support giving access for traffic emergencies.

Commissioner Suesser stated that it was her position at the last meeting that the City should be granted access in the event of a traffic emergency as determined by the City Police Chief. She still held that position.

Planner Whetstone thought there was consensus at the last meeting that there should be access in the event of an emergency declared by the Police, the Sheriff or the Fire Departments, but not because of heavy ski traffic.

Commissioner Phillips questioned whether it would be a public safety issue if Deer Valley had a good ski day and an ambulance could not get from Point A to Point B. Planner Whetstone replied that such a circumstance could be determined by the Fire District.

Director Erickson referred to Exhibit A, the Agreement, on page 259 of the Staff report and noted that Item 5 allows for the Park City Fire Marshall, Park City Police Chief, Wasatch County Fire Chief or other public safety officer in Park City or Wasatch County to declare an emergency. The language makes the specific distinction that other non-life endangering causes would not be an emergency. He believed that any case where an emergency vehicle is delayed becomes life-endangering. However, it could not be opened up to alleviate traffic congestion.

Commissioner Suesser objected to the last sentence that Director Erickson referenced regarding non-life endangering. Commissioner Campbell agreed. He stated that sometimes the traffic gets so bad at the bottom of Bonanza Drive that it becomes an

emergency for everyone, because by time they know an ambulance cannot get through it is too late. When the traffic reaches a certain density at the intersection of Bonanza and Kearns, the Police Chief should be able to open up the back road.

Director Erickson asked if the other Commissioners concurred. Commissioners Band and Phillips did not concur. Commissioner Phillips did not believe that road was a safe route for excess traffic. Commissioner Band thought it was a “can of worms”. If they intend to renegotiate the Agreement they needed to talk to the Queen Esther HOA and Wasatch County. If they intend to put a significant amount of traffic on potentially a regular basis she questioned how those roads and Highway 40 would handle it. Commissioner Band noted that the reason for putting the disconnect in place was to keep people from doing that. If they intend to make the change, she thought they should first look at why the disconnect was considered in the first place. Commissioner Band thought the conversation should involve the City Council, Wasatch County, Queen Esther, and possibly UDOT.

Commissioner Campbell agreed with Commissioner Band and he did not believe they would be able to settle the matter this evening. If they forward a recommendation to the City Council, it should include the recommendation to discuss it with all the parties mentioned.

Commissioner Phillip stated that removing the disconnect would add traffic through that area. However, if it was used only by the people living in the neighborhood it would not be significant. Commissioner Phillips favored removing the disconnect because it would be better for the traffic to go through that road rather than congesting the entry corridor roads. He believed it was a benefit to the City in that regard. Commissioner Phillips agreed that it would be great to have another way to get people out of town, but he did not think this was the right place to do that. Commissioner Campbell agreed.

Commissioner Campbell clarified that he was not proposing that the road would be open to workers or service vehicles. His point is that long term it may be one of the only primary entrances into town. Because the applicant wants to make a change to the MPD and the Agreement, now is the time to negotiate something that could be good for the City. He completely agreed that this was not the place to do it. Commissioner Campbell did not believe this should be settled by the Planning Commission. The City Council needed to work with other parties to develop a long-term plan that works for everyone.

Mr. Bennett stated that the applicant was not asking the Planning Commission to renegotiate an agreement. They were required to come before the Planning Commission and request a recommendation to the City Council. Mr. Bennett clarified that they

wanted to go directly to the City Council but they were told to come to the Planning Commission first.

Mr. Bennett thought the Commissioners made it sound like the applicant was trying to take something away from the City, therefore, the City needed to take something back for itself. He noted that they made a concerted effort to go to the various governmental agencies that are impacted by this request. He understood from their response that they would rather have the disconnect requirement eliminated. They believe it would be a benefit to the City and the County. Mr. Bennett clarified that the intent is to eliminate something that was overkill in the first place. It was an extra step that did not make sense.

Commissioner Campbell believed that all the Commissioners agreed that the disconnect should be eliminated. He clarified that he was not suggesting that the applicant was trying to take something from the City. His point is that that piece of property is one of two or three long-term possibilities for traffic access into Park City. In the near term, traffic congestion is the biggest issue they face, and they need to look at all options. If they are going to renegotiate, he would like a conversation about more than just the disconnect, because it is an opportunity to look long-term.

Assistant City Attorney McLean recalled that the Transportation Manager, Alfred Knotts, had given Planner Whetstone language that he thought would be helpful to the City for traffic management. Ms. McLean understood that the applicant was willing to allow something more than just full-on emergency. She recalled discussions about some allowances for using the disconnect under very limited circumstances. Ms. McLean thought it would be helpful for Mr. Bennett to explain to the Planning Commission what the applicant was willing to allow.

Planner Whetstone stated that Mr. Knotts had suggested opening it for traffic flow if another access point was needed. Based on the comments at the last meeting, she understood that the Planning Commission would not support that recommendation and she had articulated that to the City Engineer and the Transportation Manager. Planner Whetstone remarked that the point of the Agreement was to prevent through traffic.

Director Erickson outlined the options. The first option is that the Planning Commission could make a motion with the additional condition of approval that the City Council consider a request for additional traffic capacity during emergencies. The second option is that the Planning Commission could make a motion with a slightly variable requirement. Director Erickson remarked that in both cases, should the City Council elect to take their recommendation, it would come back to the Planning Commission with a request to debate it in the format suggested by Commissioner Band, which was

to include Park City, Wasatch County, UDOT, Queen Esther, and all other affected parties. If the City Council chooses to send it back to the Planning Commission, that discussion would occur in a Work Session.

Commissioner Campbell clarified that the City Council could reject their recommendation and approve the request. Director Erickson replied that he was correct.

Director recommended that the Planning Commission forward the recommendation outlined in the Staff report to eliminate the disconnect and recommend that the City Council consider amending the Development Agreement. However, the motion should also include a recommendation for the City Council to consider additional traffic mitigation for either emergency services or through-traffic.

Commissioner Campbell stated that he would be comfortable with a motion as suggested by Director Erickson. Chair Strachan stated that if the Planning Commission made that motion, it should specifically reference the last sentence in Item 5 of the Agreement on page 259 of the Staff report.

Commissioner Suesser asked if the applicant would be willing to consider different language as opposed to going through the process Director Erickson had outlined. Mr. Zacaro noted that Commissioner Joyce spoke at great length about this same matter at the last meeting, and the direction from the Planning Commission resulted from that conversation. As reflected in the Minutes, Commissioner Joyce spoke strongly against allowing traffic, and only thought that the road should be opened in the case of a life safety/fire safety type of emergency; and he wanted a commitment from the applicant to do that. In response to Commissioner Campbell, Mr. Zacaro pointed out that currently there was no requirement at this time to do the disconnect. The disconnect requirement is triggered when the Deer Hollow Development is completed. He explained that the only thing different since 1995 is that the Master Association owns the road. Mr. Zacaro emphasized that the Master Association would never allow that road to be disconnected, even if it means that the Deer Hollow Development could never occur. He stated that there is no trigger right now, and the trigger may not come up for ten years. Mr. Zacaro noted that the Master Association Board talked about this prior to the last Planning Commission, and the Board was willing to go along with a recommendation consistent with what Commissioner Joyce had discussed on February 8th. The Board had a follow-up meeting and agreed to go along with the amendment that was proposed before the meeting this evening. Mr. Zacaro remarked that if the amendment changes to say that the Deer Hollow road could be opened in a traffic emergency, the Master Association Board would not agree to that or any amendment that includes that requirement. Mr. Zacaro stated that Wasatch County also would

never let that road be disconnected. Fire safety for Deer Crest comes primarily through the Jordanelle Gate. They would not jeopardize lives by allowing someone to put in a disconnect that is not needed simply because the alternative put before the Deer Crest Master Association was either the disconnect requirement or an agreement to open the gates any time someone thinks there is a traffic emergency. Mr. Zacaro was only willing to entertain additional conversations regarding life-safety and similar emergencies.

Commissioner Thimm stated that when this was previously discussed he spoke against the disconnect because it is a public safety-issue. He believed having another path to get an emergency vehicle in quickly is important. Commissioner Thimm stated that if there is a traffic emergency because a glut of vehicles was clogging SR248 and the road was opened up to reduce that glut, this path would become clogged as well, and they would lose the ability to have a safe route for an emergency vehicle. Commissioner Thimm was not concerned about whether or not Deer Crest Master Association would endorse this because the issue is access for emergency vehicles.

Commissioner Campbell agreed with Commissioner Thimm. He believed everyone agreed that it would be difficult to define a traffic emergency and that would have to be negotiated. Commissioner Campbell clarified that no one was talking about a daily or weekly occurrence. It would be used very infrequently. He pointed out that those types of "emergencies" usually occur in the afternoon, and most of the traffic would be going out, which would leave the uphill road free for an emergency vehicle. He could not see both the uphill and the downhill sides being clogged at the same time.

Commissioner Thimm agreed that it was unlikely that both sides would be clogged at the same time, but he questioned whether that was a risk they were willing to take when they have the opportunity to keep it open to emergency vehicles only.

Commissioner Phillips noted that at some point the emergency vehicle would also have to leave in the other direction. In his opinion, this was a public safety benefit and he supported it.

Chair Strachan called for a motion. Assistant City Attorney McLean explained that the Planning Commission would be making a recommendation to the City Council on amending the Settlement Agreement because the MPD is tied to the Settlement Agreement. In addition, it also came to the Planning Commission because it was an MPD. The Planning Commission would be voting to approve it and make a recommendation to the City Council in order to amend the Settlement Agreement.

Director Erickson stated that the motion would be to recommend an amendment to the MPD to eliminate the required physical disconnection of the Deer Hollow Road at the Slalom Village Development parcel location; and forward a POSITIVE recommendation to the City Council to amend the Settlement Agreement in accordance with the recommendations, with a further recommendation to consider expanding the uses of Deer Hollow Road for additional emergency services and/or high traffic exiting requirements.

Mr. Bennett stated that the amendment to the Settlement Agreement as currently proposed already has a provision for emergency access. Director Erickson clarified that he had crafted the language to include an expansion of that to eliminate the last sentence of Item 5 on page 259, Item 5.

Commissioner Suesser proposed replacing the last sentence of Item 5 with language to read, "With regard to the immediately preceding sentence, the parties acknowledge and agree that traffic congestion or delays caused by weather, public or private events and gatherings, and other non-life endangering causes may be considered events sufficient to justify or allow occasional access to public traffic over Deer Hollow Drive".

Chair Strachan believed there either needed to be a clean motion with the language proposed by Commissioner Suesser; or a motion to approve the draft settlement agreement as outlined in the Staff report.

Commissioner Campbell understood that if a motion is made to forward a recommendation to the City Council and include the language drafted by Commissioner Suesser, the City Council would have the opportunity to accept or reject that language, or to revise it. Assistant City Attorney McLean replied that he was correct. Commissioner Band pointed out that through their motion to the City Council the Planning Commission would be agreeing to that language.

MOTION: Commissioner Suesser moved to APPROVE the Third Amendment to the Deer Crest Master Planned Development; and forward a POSITIVE recommendation to the City Council to amend the Settlement Agreement to suspend the requirement that Deer Hollow Road be physically disconnected at the time of development of the Deer Hollow Village aka Slalom Village parcel, pursuant to the Findings of Fact, Conclusions of Law, and Conditions of Approval with the amendment that the last sentence of paragraph 5 of the Third Amendment to the Settlement Agreement be replaced with "With regard to the immediately preceding sentence, the parties acknowledge and agree that traffic congestion or delays caused by weather, public or private events and gatherings and other non-life endangering causes may be considered events sufficient

to justify or allow occasional access to public traffic over Deer Hollow Drive". Chair Strachan seconded the motion.

VOTE: The motion failed. Commissioners Suesser and Campbell voted in favor of the motion. Commissioners Thimm, Phillips and Band voted against the motion.

MOTION: Commissioner Phillips moved to APPROVE the Third Amendment to the Deer Crest Master Planned Development; and forward a POSITIVE recommendation to the City Council to amend the Settlement Agreement to suspend a requirement that Deer Hollow Road may physically be disconnected at the time of development of Deer Hollow Village parcel, pursuant to the Findings of Fact, Conclusions of Law and Conditions of Approval. Commissioner Band seconded the motion.

VOTE: The motion passed. Commissioners Thimm, Phillips and Band voted in favor of the motion. Commissioners Suesser and Campbell voted against the motion.

Findings of Fact

1. The Deer Crest Settlement Agreement (Agreement) by and between Park City Consolidated Mines Company and Trans-Wasatch Company, L.L.C and Park City Municipal Corporation was executed on December 29, 1995.
2. A requirement for a physical disconnection of Keetley Road (aka Deer Hollow Road) in the vicinity of a development parcel known as the Slalom Village parcel (aka Deer Hollow Village) was included in this original Agreement.
3. The original purpose of the disconnect requirement was to prevent direct public through traffic between Jordanelle basin/US 40 and Park City.
4. During development of Deer Crest, permanent gates were installed on the east and west entrances. These east and west gates are guard controlled and are known as the east and west perimeter gates.
5. In 1996 a Settlement Agreement and Release was executed between the Queen Ester Village Project Owners Association, Trans Wasatch LLC, Deer Crest Associates I, L.C., and Park City Consolidated Mines (PCCM) (Trans Wasatch, Deer Crest and PCCM were the developers).
6. Included in this Queen Ester Settlement Agreement was a provision that allowed the removal of the physical disconnect at Slalom Village, if approved by Park City, "so as to permit and encourage the use of the east control gate as the point

of entry and exit for commercial, oversized or trailering vehicles, and vehicles operating outside of specified hours of operation, subject to Developer's agreement to implement gate controls no less stringent than those set forth on Exhibit B hereto in the master covenants, conditions and restrictions for the Deer Crest Project..."

7. A First Amendment to the 1995 Deer Crest Settlement Agreement (aka the First Amendment to the Telemark Park Settlement Agreement) was approved by City Council on April 8, 1997.

8. Items of the First Amendment included the following: 1) clarified density, use and configuration, and location of the development areas; 2) addressed timing of annexation of and permit issuance for the Snowtop/Hidden Hollow, Slalom Village, and Roosevelt Gap Areas; 3) moved the previous 20,000 sf ski academy (and parking limitation) from the Slalom Village Area to Telemark Park Village (aka Jordanelle Village Resort) outside of the east perimeter gate and increased the single family lots by one to five (5); 4) added right to construct ski runs and lifts to the section pertaining to the right to construct roads under certain conditions, and 5) included additional stipulations related to ski lifts, ski runs, open space, trails, other road construction, gates, utilities, and ski runs.

9. A Second Amendment to the 1995 Deer Crest Settlement Agreement (aka the Second Amendment to the Telemark Park Settlement Agreement) was approved by City Council on April 6, 2001.

10. The purpose of the Second Amendment was to increase the density of Hidden Hollow subdivision by one single family lot, thus increasing the total number of single family lots lying west of the east perimeter gate by one to 151 (from 150) and increasing the total number of units by one to 546 units (from 545); amending related exhibits, and amending the annexation agreement for Alternative A for the Roosevelt Gap/Snow Park Hotel Area (now known as the St. Regis Resort approved with the Deer Crest Hotel Conditional Use Permit) to allow the Planning Commission to approve up to 105 overnight parking spaces at Roosevelt Gap.

11. The 1995 Deer Crest Settlement Agreement property consists of approximately 678 acres, of which 523 are located within Wasatch County and 155 acres are located within Summit County.

12. The property is generally located between Deer Valley Drive East and US 40.

13. At the time of the Agreement a majority of the property was located within the unincorporated areas of these counties.

14. The Deer Crest Settlement Agreement requires Property Owner and/or Homeowners' Association responsibility for the permanent maintenance of all perimeter gates, roads, hard surfaced pedestrian and bike pathways, including snow removal.

15. On December 17th, 1998, Park City annexed 253 acres of this property as the Deer Crest Annexation (Ordinance 98-53) and 84 acres as the Hidden Hollow Annexation (Ordinance 98-52). The remaining property was developed in unincorporated Wasatch County.

16. Access to a majority of the Deer Crest Community is from US 40 at the Mayflower interchange via the east perimeter control gate (also known as the Jordanelle gate house). Access from Park City to the Deer Crest Community is from Deer Valley Drive to Queen Ester Drive and to Deer Hollow Road via the west perimeter control gates (also known as the Queen Ester gate house).

17. Two other parcels were developed in Park City, namely the Roosevelt Gap parcel with the Deer Crest Hotel CUP (St. Regis Hotel) and the Snow Park Hotel parcel with the funicular connecting to Roosevelt Gap, parking, and two employee housing units and one residential condominium unit within the funicular building, also as part of the approved Deer Crest Hotel CUP.

18. Phases 2 and 3 of the St. Regis Hotel (aka Deer Crest Hotel CUP) (future residential condominiums) are also approved at the Snow Park Hotel site but have not been constructed. Parking and access through the west perimeter gates for the St. Regis Hotel (approved as the Deer Crest Hotel CUP) is subject to the Settlement Agreement, as amended, and as reflected in the Deer Crest Hotel CUP conditions of approval.

19. Access through the gates is also described in the Queen Ester Settlement Agreement executed on August 1, 1996.

20. The applicant, Deer Crest Associates I, L.C., developer of the Deer Crest Master Planned Development community, is successor in interest to Trans Wasatch Company, L.L.C. and Park City Consolidated Mines Company in matters related to the Deer Crest Settlement Agreement dated December 29, 1995.

21. On June 9, 2016, the applicant submitted a request for a Third Amendment to the Settlement Agreement (which acts as the Master Planned Development for the property) to suspend a requirement for a physical disconnection of Keetley Road (aka Deer Hollow Road) in the vicinity of a development parcel known as the Slalom Village parcel (aka Deer Hollow Village).
22. The application was considered complete on November 22, 2016 upon submittal of a revised surrounding property owner mailing list and envelopes on November 22, 2016.
23. Subject property, e.g. the general location of the required disconnect, is zoned Recreation Commercial- Master Planned Development (RC-MPD).
24. Deer Crest Master Association (DCMA), as owner and responsible party for the roads and gates within the Deer Crest Development, is party to this Third Amendment.
25. Wasatch County, Deer Valley Resort, JSSD special service district, the Deer Crest Master Association, and Deer Valley Resort submitted letters in support of this amendment.
26. Staff received numerous letters in support of this amendment from home owners within Deer Crest Estates.
27. This proposed Third Amended Settlement Agreement does not request changes to the approved Deer Crest Hotel CUP, or any of the other development parcels within the Deer Crest Development area.
28. On February 8, 2017, the Planning Commission conducted a public hearing on the Third Amended Settlement Agreement and Deer Crest Development MPD.
29. A representative from Deer Valley Resort spoke in favor of the requested Third Amendment to suspend the disconnect requirement.
30. A property owner from the Deer Crest community also spoke in favor of the requested Third Amendment to suspend the disconnect requirement, reiterating the adverse effects of the requirement, as stated in many of the letters received regarding this amendment.
31. A property owner from the Snow Top Subdivision also expressed many of the same concerns with the requirement to disconnect Deer Hollow Road.

32. The managing partner of the St. Regis Resort, a property that is located within the east and west perimeter gates, also spoke in favor of the requested amendment.

33. No changes are proposed to approved parcel densities outlined in the Settlement Agreement, as amended. Slalom Village (aka Deer Hollow Village) is one of the remaining undeveloped areas of the MPD. Section 5.2.3.1 states the density “shall not exceed 83 multi-family units (maximum 2,400 square feet per unit) with support commercial space up to 5% of the gross square footage and appropriate amenities and five (5) single-family lots (per 1st Amendment)”. Alternatively, the Agreement states “in the event Property Owners elect not to construct the development described in Section 5.2.3 above, then Property Owners shall have the right to develop a single family subdivision not to exceed twelve (12) lots in place of the 83 multi-family units. The twelve (12) single-family lots are in addition to the five (5) original lots.

34. No changes are proposed to setbacks, open space, off-street parking, building height, landscaping, sensitive lands compliance, affordable housing requirements, child care, trails, clustered development site planning, grading and retaining walls, as outlined in the Settlement Agreement, as amended.

35. The proposed MPD and Third Settlement Agreement Amendment allows internal vehicular and pedestrian/bicycle circulation for residents within the Deer Crest/Hidden Hollow/Snowtop/St Regis Hotel Neighborhood area, by keeping the loop open within the area (keeping the perimeter gates in place). There will continue to be relatively direct access between the various subdivisions and hotels within the development.

36. Additionally, service and delivery, employee vans, guests and owners of the St. Regis Hotel, approaching from US 40 and the east gate, will take a more direct route using Deer Hollow Road, as opposed to Deer Crest Estates Drive, a more circuitous route through a residential neighborhood. Creation of two dead end roads interrupts a loop route for internal circulation within (inside the two gates) the Deer Crest/Hidden Hollow/Snowtop/St. Regis Hotel Neighborhood.

37. The MPD and Third Settlement Agreement amendment includes a provision for a gated emergency /utility road at the Deer Hollow Village location (one that does not allow general public access) in the event a permanent disconnect is required at some time in the future.

38. Snow removal and snow storage for the Deer Hollow Village parcel are not

changed with the proposed MPD Amendment. Specifics of snow removal and snow storage are reviewed at the time of the Conditional Use Permit review. Creation of two dead end roads interrupts a more efficient loop route for snow removal services, and requires two large turn around areas to be constructed. The road is relatively steep (about 10%) in this area and the terrain within the Slalom Village parcel slopes down from north to south at a 50-60% slope with the north side of the road steeper than the south.

39. Creation of two dead end roads at Deer Hollow Village interrupts a loop route for refuse and recycling collection within the Deer Crest neighborhood. Specifics of trash dumpsters and recycling containers, and the screening of these facilities, are reviewed at the time of the Conditional Use Permit review.

40. The MPD and Third Settlement Agreement Amendment encourages reduction of vehicular trips. A more direct route from US 40 to the Hotel for van and shuttle service and employee shuttles will contribute to a reduction in vehicular trips within the Deer Crest Development area and the west entrance gates.

41. Site specific items regarding service and delivery and loading/unloading areas are reviewed at the time of a Conditional Use Permit.

42. Mine Hazards and Historic Mine Waste mitigation will be identified and reviewed at the time of the Conditional Use Permit.

43. Historic Structures and any required mitigation measures will be identified and reviewed at the time of the Conditional Use Permit.

44. Best planning practices for sustainable development, including water conservation measures and energy efficient design and construction, per the Residential and Commercial Energy and Green Building programs and codes adopted by the Park City Building Department in effect at the time of the Conditional Use Permit Application, will be reviewed at the time of the Conditional Use Permit.

45. The MPD and Third Settlement Agreement Amendment were reviewed for consistency with goals and objectives of the Park City General Plan and found to maintain Park City's resort and neighborhood character, protect neighborhoods from impacts of development, provide pedestrian amenities and connections, promote efficient delivery of services and emergency response, provide efficient vehicular circulation and promote reduction of vehicular trips.

46. On November 30, 2016, the property was posted and notices of the public hearing were mailed to property owners within the Deer Crest Master HOA as well as to property owners within 300 feet of the lower west perimeter gate, including the Queen Ester and lower Solamere neighborhoods.

47. Legal notice was published in the Park Record, on the City Website, and on the Utah Public Notice Website on November 26, 2016.

Conclusions of Law

1. The MPD and Settlement Agreement amendment complies with all the requirements of the Land Management Code.
2. The MPD and Settlement Agreement amendment meets the minimum requirements of Section 15-6-5 of the LMC Code.
3. The MPD and Settlement Agreement amendment provides the highest value of open space, as determined by the Planning Commission.
4. The MPD and Settlement Agreement amendment strengthens and enhances the resort character of Park City.
5. The MPD and Settlement Agreement amendment compliments the natural features on the Site and preserves significant features or vegetation to the extent possible.
6. The MPD and Settlement Agreement amendment is Compatible in Use, scale and mass with adjacent Properties, and promotes neighborhood Compatibility and protects residential neighborhoods and Uses.
7. The MPD and Settlement Agreement amendment provides amenities to the community so that there is no net loss of community amenities.
8. The MPD and Settlement Agreement amendment is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
9. The MPD and Settlement Agreement amendment meets the provisions of the Sensitive Lands requirements of the Land Management Code. The project has been designed to place Development on the most developable Land and least visually obtrusive portions of the Site.
10. The MPD and Settlement Agreement amendment promotes the Use of non-vehicular forms of transportation through design and by providing trail connections.
11. The MPD and Settlement Agreement amendment has been noticed and public hearing held in accordance with this Code.
12. The MPD and Settlement Agreement amendment incorporates best planning practices for sustainable development, including water conservation measures and energy efficient design and construction, per the Residential and Commercial

Energy and Green Building programs and codes adopted by the Park City Building Department in effect at the time of the Application.

13. The MPD and Settlement Agreement Amendment, as conditioned, addresses Historic Sites and Mine Hazard Waste.

Conditions of Approval

1. All provisions, requirements, regulations, and conditions of approval of the 1995 Deer Crest Settlement Agreement, as amended, continue to apply.
2. Historic Sites and Structures on the property shall be identified and any required mitigation measures shall be taken into consideration during Planning Commission review of the Conditional Use Permit application for the Deer Hollow Village parcels.
3. Mine Hazard Waste shall be identified and any required mitigation shall be taken into consideration during Planning Commission review of the Conditional Use Permit application for the Deer Hollow Village parcels.
4. Best planning practices for sustainable development, including water conservation measures and energy efficient design and construction, per the Residential and Commercial Energy and Green Building programs and codes adopted by the Park City Building Department in effect at the time of the Conditional Use Permit application, shall be reviewed by the Planning Commission during review of the Conditional Use Permit application for Deer Hollow Village parcels.
5. Approval of the Third Amendment to the Settlement Agreement by the City Council is a condition precedent to submittal of a Conditional Use Permit for development of the Deer Hollow Village parcels.
6. The Third Amendment to the Settlement Agreement shall be fully executed and recorded at Summit County within six (6) months of approval by City Council or this approval shall be null and void, unless a written request for an extension is submitted to the Planning Department and approved by the Planning Commission.

The Planning Commission adjourned the Regular Meeting and moved into Work Session for general legal training and the Open Public Meetings Act.

WORK SESSION

Annual Legal Training

Assistant City Attorney McLean reviewed general legal training issues.

Commissioner Band stated that she had attended the Board of Adjustment meeting as the Planning Commission liaison. When the public hearing was opened she had things she wanted to say as a private citizen, but decided against it because she was unsure if it was appropriate. Ms. McLean explained that it would not have been appropriate for Commissioner Band to comment on behalf of the Planning Commission due to a potential conflict of having the matter come back to the Planning Commission. Commissioner Band assumed that even if she had made comments as an individual, she would have to recuse herself if it did come back to the Planning Commission. Ms. McLean answered yes. She cautioned them to avoid the appearance of conflict.

Assistant City Attorney McLean stated that there were major changes to the State Code resulting from the recent legislative session. Many of the changes related to historic and nightly rentals. It was not an overhaul of LUDMA, but there were many tweaks that affect cities and how they administer policy. The Planning Commission should expect to see changes from the Legal and Planning Departments to comply with the legislative changes. She stated that the changes do not go into effect until May and they will give them to the Commissioners prior to that time.

Commissioner Campbell asked if there was an urgency to change the LMC to comply with the new changes. Ms. McLean stated that if the State Code supersedes Municipal law, the State Code would control.

Commissioner Thimm stated that if there is a conflict between the LMC and recently adopted legislation by the State, he thought that should be transparent and the Planning Commission should adhere strictly to the LMC. Ms. McLean replied that if the State Code supersedes the City Code, they need to abide by State law. She had not had the opportunity to review all of the changes; however, by the time it goes into effect she would be prepared to advise the Planning Commission on the relevant Code sections to make sure the applications are reviewed within the requirements of the State Code, even if the LMC still needed to be updated to reflect those changes.

Assistant City Attorney McLean stated that in an effort to make their decisions more defensible in Court, the Commissioners should stay away from the tendency of saying I like..., I think..., we don't need this. She recommended that they use phrases such as, "this use complies, this application meets the criteria because..., etc." They should try

to remove themselves personally and center their comments based on the Code and their interpretation of the Code. Commissioner Suesser struggled with this because she felt like they were expressing their understanding rather than just stating a fact. Because their opinions vary, she sometimes phrases her comments as "it's my understanding or my read of this". Ms. McLean suggested that a better phrase would be, "my interpretation of criteria....is supported by findings of fact #...." Ms. McLean explained that the Courts look at whether the Planning Commission's decision was arbitrary and capricious. Their decision can be overturned if it is based on an illegal Code section, or if it is just arbitrary or capricious. If their decision is based on facts and evidence, the Legal Department has more evidence to show to the Court to defend it.

Commissioner Campbell understood that if there is a specific case they feel is important, they are allowed to read a written statement during the meeting. He asked if it would be appropriate to bring it to the Legal Department for editing and advice before the meeting. Ms. McLean stated that she would be able to look at it first. Chair Strachan suggested that if a Commissioner intends to draft a written statement, they should meet with Ms. McLean privately first to discuss what they would like to write to make sure it is appropriate.

Assistant City Attorney McLean encouraged the Commissioners to come to the Legal Department and talk with her on an individual basis. There is nothing to preclude one on one counsel and their conversation is protected and privileged. Ms. McLean reminded the Planning Commission that anything they submit in an open meeting becomes part of the record.

Commissioner Band wanted to know the procedure for making comments if a Commissioner has read through the packet but could not attend the meeting. Ms. McLean stated that she would have to look at wording in terms of entering it into the record. She thought the best way would be to talk to one Commissioner and ask that person to relay their comments. Another option would be for the Planning Commission to start with electronic meetings. This currently has not been done, because despite all of the technological advances there are still failures.

Commissioner Thimm stated that he has been at hearings with electronic participation and it does not work well. Chair Strachan recalled that in the past, if a Commissioner was unable to attend a meeting they could submit their comments in writing to the Chair, and the Chair would make it part of the record. Ms. McLean believed that was still an appropriate procedure, but she would double-check to make sure.

Assistant City Attorney McLean reminded the Planning Commission of the requirement to update their disclosure statement. She noted that the Municipal Code was now online. If any of the Commissioners wanted a hard copy they should ask the Planning Department.

Assistant City Attorney McLean talked about media training in terms of speaking for themselves versus speaking for the Planning Commission. This group is good about communicating with the radio and newspaper to do recaps of the meeting. It is important not to talk about open applications. The record speaks for itself. Regardless of one person's opinion, the focus should be on how the Planning Commission voted.

Assistant City Attorney McLean thanked the Commissioners for being diligent in attending the meetings. If they cannot attend a meeting they should notify the Planning Department as soon as possible.

Assistant City Attorney McLean noted that the written Minutes are the official record of their meeting. She commented on the number of "hats" the Commissioners wear. In terms of legislative they look at LMC and General Plan matters, as well as plat amendments. Administrative are MPDs and CUPs. Quasi-judicial are appeals of the Planning Director or Planning Department determinations. Based on the "hat" they are wearing, the type of public input changes. It is acceptable to listen to public clamor on legislative matters. Public input on administrative matters are more restrictive. The Planning Commission is bound by the law and not public opinion. Quasi-judicial is the most restrictive because the Planning Commissioner has the role of judge. All comments should take place at the meeting so both sides have the ability to hear all the evidence. The Commissioners never have to recuse on legislative matters, but they do have to disclose if the change may affect them. The Commissioners definitely need to disclose and/or recuse on administrative or quasi-judicial matters if they have a personal interest or conflict. Whether or not to disclose is up to the individual Commissioner; however, if a Commissioner is unsure about whether or not to disclose or recuse they could talk to her prior to the meeting and she would help advise them.

Assistant City Attorney McLean remarked that the training on the Open Public Meetings Act was the same as previous years.

The Park City Planning Commission Meeting adjourned at 8:00 p.m.

Approved by Planning Commission: _____

DRAFT

WHEN RECORDED, MAIL TO:
City Recorder
Park City Municipal Corporation
P. O. Box 1480
Park City, Utah 84060

**DEVELOPMENT AGREEMENT
FOR THE INTERMOUNTAIN HEALTHCARE (IHC) MASTER PLANNED
DEVELOPMENT (MPD), AS AMENDED, LOCATED ON LOTS 1, 2, 4, 5, 6, 7, 8, 9, 10,
11, AND 12 OF THE THIRD AMENDED INTERMOUNTAIN HEALTHCARE PARK
CITY MEDICAL CAMPUS/USSA HEADQUARTERS AND TRAINING FACILITY
SUBDIVISION PLAT LOCATED AT ROUND VALLEY DRIVE, PARK CITY, SUMMIT
COUNTY, UTAH**

This Development Agreement is entered into as of this ____ day of _____, 2017, by and between IHC Hospital, Inc. ("Developer") as the owner and developer of certain real property located in Park City, Summit County, Utah, on which Developer proposes the development of a project known as the Intermountain Healthcare (IHC) Master Planned Development, and Park City Municipal Corporation, a municipality and political subdivision of the State of Utah ("Park City"), by and through its City Council.

R E C I T A L S

A. Developer is the owner of LOTS 1, 2, 6, 8, 9, 10, 11, and 12 OF THE SECOND- AND THIRD AMENDED INTERMOUNTAIN HEALTHCARE PARK CITY MEDICAL CAMPUS/USSA HEADQUARTERS AND TRAINING FACILITY SUBDIVISION PLATS located on Round Valley Drive in Park City, Summit County, Utah, as described in the Legal Description, which is attached hereto as Attachment 1, and incorporated herein by this reference (the "Property"), on which it has obtained approval for the development known as the Intermountain Healthcare (IHC) Master Planned Development aka IHC MPD, as amended, and as more fully described in the incorporated approved MPD Plans attached hereto as Attachment 2. Lots 4 and 5 OF THE SECOND AND THIRD AMENDED INTERMOUNTAIN HEALTHCARE PARK CITY MEDICAL CAMPUS/USSA HEADQUARTERS AND TRAINING FACILITY SUBDIVISION PLATS are owned by Park City Municipal Corporation. Lot 7 OF THE SECOND AND THIRD AMENDED INTERMOUNTAIN HEALTHCARE PARK CITY MEDICAL CAMPUS/USSA HEADQUARTERS AND TRAINING FACILITY SUBDIVISION PLATS was originally owned by the Developer and is part of this MPD and its amendments, and is now owned by Physicians Holding, Inc.

B. The Property is also subject to an Annexation Agreement that set forth terms and conditions under which the City would annex certain land, consisting of 157 acres and located in unincorporated Summit County, Utah at the northwest corner of State Road 248 and Highway 40, into the corporate limits of the City and extend municipal services to the Property. The Annexation Agreement recorded at Summit County on 1/23/2007 (Entry No. 00802747) and attached hereto as Attachment 3, includes as an attachment certain Findings and Annexation Agreement Points that apply to the IHC MPD.

C. The Property is subject to the Second and Third Amended Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Subdivision plats attached hereto as Attachment 4.

D. Park City requires development agreements under the requirements of the Park City Land Management Code (“LMC”) Section 15-6-4 (G) for all Master Planned Developments.

E. Developer is willing to design and develop the Project in a manner that is in harmony with and intended to promote the long-range policies, goals and objectives of the Park City General Plan, and to address other issues as more fully set forth below.

F. Park City, acting pursuant to its authority under Utah Code Ann., Section 10-9-101, *et seq.*, and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to approve this amended Development Agreement.

Now, therefore, in consideration of the mutual covenants, conditions and considerations as more fully set forth below, Developer and Park City hereby agree as follows:

1. **Property**

The IHC MPD, as Amended, consists of Lots 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the Intermountain Healthcare Park City Medical Campus / USSA Headquarters and Training Facility Subdivision (IHC/USSA Subdivisions as Amended), and generally includes an Intermountain Healthcare Hospital of 300,000 square feet (180 Unit Equivalents) located on Lot 1 and Support Medical Office space of 150,000 square feet (150 Unit Equivalents) located on Lots 1, 7, and 10. The Peace House facility was approved to be located on Lot 8. Lot 2 was dedicated as open space. Lot 4, originally identified for 28 deed restricted housing units, is identified for public safety uses **such as a Fire Station or other public safety buildings**, and open space. Lot 5 is dedicated to the City for future recreation uses. Support medical office uses previously approved for Lots 6 and 8 were transferred to Lot 1. Lot 9 contains a small Questar gas regulating facility, Lot 11 is a one acre lot surrounding Lot 9, and Lot 12 is a separate lot created by subdividing Lot 8 that has no currently assigned density or uses. Lot 3 of the IHC/USSA Subdivision is not part of the IHC MPD and is owned by and the location of the USSA Headquarters and Training Center Master Planned Development. The Second and Third Amended IHC/USSA Subdivision plats are attached hereto as Attachment 4.

The property is located on Round Valley Drive west of US 40 and east of the Round Valley Open Space area, in the Quinn’s Junction neighborhood of Park City, as described in the Park City General Plan. The property is located in the Community Transition (CT) Zoning District.

2. **Project Conditions, Exactions and Agreed Dedications**

2.1. The Action letters and MPD Plans as approved by the Planning Commission on May 23, 2007, attached hereto as Attachment 5, as amended and approved by the Planning Commission on October 8, 2014 and attached hereto as Attachment 6, and as further amended and approved by the Planning Commission on January 13, 2016 and attached hereto as Attachment 7, are incorporated herein as the Project; subject to changes detailed herein.

2.2. Developer and its successors agree to pay the then current impact fees imposed and as uniformly established by the Park City Municipal Code at the time of permit application, whether or not state statutes regarding such fees are amended in the future.

2.3. Developer and any successors agree that the following are required to be entered into and approved by Park City prior to issuance of a Building Permit: (a) a construction mitigation plan, (b) utility and grading plans, (c) a storm water plan, (d) flood plain and wetland delineation studies; and (e) a water efficient landscape and irrigation plan showing snow storage areas.

2.4. Developer is responsible for compliance with all local, state, and federal regulations regarding any contaminated soils as well as streams and wetlands. Developer is responsible for receiving any Army Corp of Engineer Permits required related to any disturbance of streams and wetlands.

2.5. **Developer Exactions and agreed upon public dedications are outlined in the Annexation Agreement. The following are outstanding Developer obligations:**

- a. Trails Easement – being executed prior to building permit issuance for final phase of Hospital construction.
- b. Affordable Housing – 4 AUEs – Upon payment of Intermountain of \$816,000 to Peace House and Peace House completing construction of its facility.
- c. Affordable Housing – 6.82 AUEs – To be fulfilled before certificate of occupancy of full build out of the hospital.
- d. Silver Summit Frontage Road Easement – Upon request by Park City Municipal Corporation and prior to certificate of occupancy of final phase of Hospital construction.
- e. Parking Study – Upon submission of next application for construction on Hospital campus by Intermountain Healthcare

3. **Vested Rights and Reserved Legislative Powers**

3.1 Subject to the provisions of this Agreement, Developer shall have the right to develop and construct the Project in accordance with the uses, densities, intensities, and general configuration of development approved by this Agreement, subject to compliance with the other applicable ordinances and regulations of Park City.

3.2 **Reserved Legislative Powers.** Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the existing land use and zoning regulations which are applicable to the Project under the terms of this Agreement based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed legislative changes affecting the Project and terms and conditions of this Agreement applicable to the Project shall be of general application to all development activity in the City; and, unless the City declares an emergency, Developer shall be entitled to the required notice and an opportunity to

be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

4. **Successors and Assigns.**

4.1 **Binding Effect.** This Agreement shall be binding on the successors and assigns of Developer in the ownership or development of any portion of the Project.

4.2 **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of the City, which consent shall not be unreasonably withheld. Any such request for assignment may be made by letter addressed to the City and the prior written consent of the City may also be evidenced by letter from the City to Developer or its successors or assigns. This restriction on assignment is not intended to prohibit or impede the sale of parcels of fully or partially improved or unimproved land by Developer prior to construction of buildings or improvements on the parcels, with Developer retaining all rights and responsibilities under this Agreement.

5. **General Terms and Conditions.**

5.1 **Term of Agreement.** Construction as defined by the Uniform Building Code did commence within two (2) years of the date of the approval of the original MPD Construction, as defined by the Uniform Building Code. After Construction commences, the IHC Master Planned Development and this Agreement shall continue in force and effect until all obligations hereto have been satisfied. The Master Plan approval for the Project shall remain valid so long as construction is proceeding in accordance with the approved Phasing Plan as set forth herein (Attachment 8).

5.2 **Agreement to Run With the Land.** This Development Agreement shall be recorded against the Property, as described herein, and shall be deemed to run with the land and shall be binding on all successors and assigns of Developer in the ownership or development of any portion of the Property.

5.3 **No Joint Venture, Partnership or Third Party Rights.** This Development Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto, nor any rights or benefits to third parties.

5.4 **Integration.** This Development Agreement, with Attachments incorporated herein, contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

5.5 **Severability.** If any part or provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Agreement shall be deemed invalid due its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

5.6 Attorney's Fees. If this Development Agreement or any of the Attachments hereto are breached, the party at fault agrees to pay the attorney's fees and all costs of enforcement of the non-breaching party.

5.7 Minor Administrative Modification. Minor administrative modification may occur to this MPD approval without necessity of revision of this Agreement.

6. **Phasing.**

6.1 Project Phasing. The Project has been and will continue to be developed in multiple phases as outlined on the approved amended Phasing Plan attached hereto as Attachment 8.

6.2 Form of Ownership Anticipated for the Project. The Project will consist of hospital and medical office uses, the Peace House, Summit County Health Department and People's Health Clinic offices and clinics, future City recreational uses, public safety uses, open space, and other related improvements. Developer anticipates that the Lots and Parcels of the MPD will be owned and/or leased by Developer, or its assigns. Lot 5 was dedicated to the City for future recreational uses. Any proposal to condominiumize the Project for private ownership, fractional ownership and common ownership of land and common facilities requires additional approvals and shall be in compliance with applicable ordinances and state code.

7. **Water.**

Developer acknowledges that water development fees were calculated by the City in the same manner and in the same comparative amount as with other developments within the municipal boundaries and that impact fees so collected will not be refunded to Developer or to individual building permit applicants developing within the Project. Additional requirements regarding water are memorialized in the Annexation Agreement, attached hereto as Attachment 3, as recorded at Summit County on 1/23/2007 (Entry No. 00802747). Last sentence deleted pending final verification from Legal.

8. **Affordable Housing.**

This Master Planned Development is subject to affordable housing requirements as described in the Annexation Agreement, attached hereto as Attachment 3, as recorded at Summit County on 1/23/2007 (Entry No. 00802747). Additionally, the MPD is subject to a Housing Mitigation Plan approved by the Park City Housing Authority on June 4, 2016 and attached hereto as Attachment 9a. and an amended Housing Mitigation Plan as approved by the Park City Housing Authority on February 2, 2017, and attached hereto as Attachment 9b. The amended Housing Mitigation Plan includes requirements related to the Peace House facility proposed to be constructed on Lot 8 of the Third Amended IHC Subdivision plat. The Developer shall comply with the affordable housing requirements as amended with the February 3, 2017, Amended Affordable Housing Mitigation Plan, prior to receiving certificates of occupancy for the Peace House and the affordable housing requirements of the Annexation Agreement for future phases of the MPD.

9. **Physical Mine Hazards.**

There are no known Physical Mine Hazards on the property as determined through the exercise of reasonable due diligence by the Owner attached hereto as Attachment 10.

10. **Historic Structures.**

There are no known Historic Structures on the Property, according to the City's Historic Sites Inventory.

11. **Quinn's Junction Area Study.**

The City hereby confirms that the Property is located within the Quinn's Junction Area Study ("QJAS") and the findings and conclusions of the QJAS, attached hereto as Attachment 11, are consistent with the provisions of this Development Agreement.

12. **Ratification of Development Agreement.**

On December 14, 2016, the Planning Commission approved an extension to ratify the Development Agreement by July 13, 2017 as stated in the Extension of ratification Action Letter, attached hereto as Attachment 12.

13. **Notices.**

All notices, requests, demands, and other communications hereunder shall be in writing and shall be given (i) by Federal Express, UPS, or other established express delivery service which maintains delivery records, (ii) by hand delivery, or (iii) by certified or registered mail, postage prepaid, return receipt requested, to the parties at the following addresses, or at such other address as the parties may designate by written notice in the above manner:

To Developers:

IHC Health Services, Inc. Utah
36 South State Street, 23rd Floor
Salt Lake City, UT 84111
Attn: Corporate Real Estate Director

To Park City:

Park City Municipal Corporation
445 Marsac Avenue
PO Box 1480
Park City, UT 84060
Attn: City Attorney

Such communication may also be given by facsimile and/or email transmission, provided any such communication is concurrently given by one of the above methods. Notices shall be deemed effective upon receipt, or upon attempted delivery thereof if delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery.

14. **List of Attachments.**

Attachment 1- Legal Description of Property

Attachment 2- Approved MPD Site Plan

Attachment 3- Annexation Agreement (Recorded 1/23/2007 Entry No. 00802747)

Attachment 4- Second and Third Amended IHC/USSA Subdivision plats

Attachment 5- Action letter Planning Commission approval of MPD - May 23, 2007

Attachment 6- Action letter Planning Commission approval of First Amended MPD - October 8, 2014

Attachment 7- Action letter Planning Commission approval of Second Amended MPD -January 13, 2016

Attachment 8- Phasing Plan (Approved Amended Phasing Plan - October 8, 2014)

Attachment 9a- Housing Mitigation Plan approved on June 4, 2015

Attachment 9b- Amended Housing Mitigation Plan approved on February 3, 2017

Attachment 10- Mine Hazard Letter

Attachment 11- Quinn's Junction Area Study Findings and Conclusions

Attachment 12- Extension of ratification by Planning Commission - December 14, 2016

IN WITNESS WHEREOF, this Development Agreement has been executed by the Developer by persons duly authorized to execute the same and by the City of Park City, acting by and through its City Council as of the ____ day of _____, 2017.

PARK CITY MUNICIPAL CORPORATION:

By: _____

Jack Thomas, Mayor

ATTEST:

By: _____

Michelle Kellogg, City Recorder

APPROVED AS TO FORM:

Mark D. Harrington, City Attorney

STATE OF UTAH)

: ss

COUNTY OF SUMMIT)

On this ____ day of _____, 2017, personally appeared before me Jack Thomas, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed), did say that he is the Mayor of Park City Municipal Corporation.

Notary Public:

IHC Health Services, Inc. Utah
36 South State Street, 23rd Floor
Salt Lake City, UT 84111
Attn: Corporate Real Estate Director

By: _____

STATE OF UTAH)
 : ss
COUNTY OF SUMMIT)

On this ____ day of _____, 2017, personally appeared before me _____, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed), did say that he is a managing partner of IHC Health Services, INC. Utah

Notary Public