

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MARCH 11, 2020

COMMISSIONERS IN ATTENDANCE:

Chair John Phillips, Sarah Hall, John Kenworthy, Laura Suesser, Mark Sletten, Christin Van Dine

EX OFFICIO: Planning Director Bruce Erickson; Hannah Tyler, Planner; Caitlyn Barhorst, Planner; Rebecca Ward, Planner; Alexandra Ananth; Planner; Elizabeth Jackson, Planner; Mark Harrington, City Attorney

Chair Phillips was late arriving. Commissioner Suesser assumed the Chair until he arrived.

ROLL CALL

Vice-Chair Suesser called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Thimm, who was excused. Commissioner Van Dine and Phillips were expected to arrive late.

APPROVAL OF MINUTES

February 26, 2020

MOTION: Commissioner Kenworthy moved to APPROVE the Minutes of February 26, 2020 as written. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

Director Erickson reported that the Alice Claim Mine conditional use permit application for the retaining wall was withdrawn. The project planner has written record of that withdrawal and action will not take place. If any member of the public intended to comment on that application, they could do so now under Public Communications.

James Doilney, a resident at 50 Sampson Avenue, thanked the Planning Commission for their service, recognizing that it is a difficult job. Mr. Doilney stated that he has attended numerous meetings on this particular project over the past ten years. He changed his scheduled to make sure he would be in town to comment this evening and he appreciated being able to speak to this issue even though the application was withdrawn.

Mr. Doilney stated that the neighborhood has spent 10 years monitoring the King Alice Claim project. The final approval had specific requirements that were carefully considered and resulted from enumerable public hearings. He understood that the applicant had requested a conditional use permit because "a mistake in a retaining wall was made". He also understood that the request was withdrawn by the applicant. Mr. Doilney stated that he was here to comment because given the history of late meeting cancellations, it was highly unlikely that he would be in Park City when the actual public hearing occurs. Mr. Doilney clarified that he could not speak to the specifics of the mistake because he had not reviewed it carefully enough to have specific complaints. However, what he understands from rumored comments is that the mistake is larger than mistakes he has made in many buildings he built. From what he has heard, it is a location error but he has not heard any specifics.

Mr. Doilney understood that the engineer recommended that the mistaken location be approved. He pointed out that engineers typically do not have standing in planning approvals other than to say whether or not something can be done. He was unsure why the City Engineer would be solicited, except by the applicant, in order to solicit an exception. Mr. Doilney stated that if the Planning Commission grants an approval to this purported mistake, they would be setting a precedent on a multi-year project that would be hard to ignore in the future. He would ask the City Attorney to speak to the concept of precedent setting and planning approvals of this scope.

Michael Demkowicz, the principle at Alliance Engineering, stated that Alliance Engineering was hired by the contractor to position that Alice Claim retaining wall location. Mr. Demkowicz explained that the mistake was a miscommunication between the surveyors placing stakes in a certain position and where the wall was built. He stated that the stakes were placed with painting marks and skewed to a perpendicular position of where the wall would be located. They kept a distance from the information on that stake from the face of the wall from that stake. Mr. Demkowicz stated that when they painted these skewed lines versus a perpendicular distance to the curve of the road, they spoke with the contractors when it was first laid out. However, when the actual excavation occurred, instead of measuring in the skewed lines, the contractor measured ten feet from the stake in a perpendicular line. That is how the excavation of that wall was pushed further away from the edge of asphalt at the King Road intersection.

Mr. Demkowicz stated that it was an honest mistake on the part of the field surveyors under the direction of the Alliance Engineering Survey Manager, and himself as the Principle. He noted that Alliance Engineering has been in discussion with the owner, and if they need to put the wall back to its original location it could be done. It would require putting a new wall in front of the existing wall closer to the street, and they would fill in dirt to hide the wall behind it. Mr. Demkowicz remarked that when this situation

occurred, he assumed Alliance Engineering would need to address the issue, unless an honest mistake in construction could be accepted. Mr. Demkowicz pointed out that even though it was a mistake, the positioning of the wall gave the intersection more room than what was currently designed. Mr. Demkowicz clarified that Alliance Engineering was not the design engineer. They were strictly the construction stakers. They incorporated the engineer's design and laid it out. He believed the built wall was taller than the six feet requirement they were working with. In order to keep it at a 6' design, it was pushed as close to the existing edge of asphalt as possible, with the terrain of the land. When it was excavated further back, the terrain of the land slopes up, and in order to catch that edge of slope the wall got higher. Being pushed back three or four feet in horizontal distance increased the height to 9'. The as-built surveying was done to check all the dimensions creating many exhibits that will be presented if it comes back for a final vote.

Mr. Demkowicz emphasized that it was an honest mistake. He did not fully understand the history of the project and the position of those in the neighborhood. However, he did understand how the neighbors could potentially see this as a developer getting away with something or setting a precedent that developers can do whatever they want. He just wanted it clear that Alliance Engineering was involved in this situation and it was an honest mistake and a miscommunication. In general, his firm does very good work. If they need to put the wall back to where it was, they can do it; but he thought it was an expense that may or may not need to occur.

Vice-Chair Suesser closed the public hearing.

Commissioners Phillips and Van Dine arrived.

Chair Phillips assumed the Chair.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Erickson reiterated that Alice Claim had withdrawn the application for the CUP and there was no application in effect at this time. He noted that some conditions of approval need to be reviewed by him, the City Engineer and Snyderville Basin in terms of the existing wall before taking action.

Director Erickson commented on the protocol for keeping the Planning Department disinfected due to the Coronavirus. He thanked Jessica Nelson and Rebecca Ward for thoroughly disinfecting the Council Chambers before the meeting this evening. Director Erickson had cleaned the Commissioner's name signs.

Director Erickson reported that on March 25th the Staff would be bringing forward the updated Staff report with all the LMC requests. Planner Ward had prepared a schedule on what Code amendments would be discussed at a specific meeting. She had also put together a schedule for a clean work session on Land Management Code and General Plan items. Director Erickson stated that in advance of the meeting, he and Planner Ward will identify what item will be on the agenda for the work session. They will attempt to deliver the Code for that specific item to give the Planning Commission an idea of the framework and what other communities do and decide whether it is a good idea or a bad idea and provide input. The intent is to avoid looking back 20 years ago on some of these items. Instead, they were looking forward to what other communities are doing. Director Erickson remarked that currently the benchmark communities are Boulder, Jackson Hole, Teton County, and a few other gateway cities. He clarified that it was only an exercise to give the Planning Commission some ideas to frame the discussion. It would look at issues such as a saturation analysis for affordable housing, wildlife effects, and updated Codes from other communities. They will begin that strategy on March 21st.

Director Erickson stated that the Planning Commission would be given a schedule for the next year. The Staff will be delivering conceptual Code items and the Planning Commission can say whether they do or do not like the concept and provide feedback.

Director Erickson reported that Tuesday, April 14th is "Be Nice to Commissioners Day". Chair Phillips stated that he would not be able to attend on April 14th. Director Erickson explained that the idea is to have the Planning Commission and the Staff interact with each other in a different format. They will sit down and talk conceptual about planning items. The meeting will be noticed once the date and plans are finalized.

Jessica Nelson noted that the Granicus Program prepares the agenda and puts the packet together. Once the items are submitted the agenda cannot be changed and the Staff report cannot be recreated. Some of the exhibits were misplaced in the Staff report but she did not have the ability to fix it. She had a service ticket into Granicus to resolve the problem.

Commissioner Suesser referred to Director Erickson's comment that the Alice Claim matter would be between him, the applicant, and the City Engineer. She wanted to know if it would come back to the Planning Commission. Director Erickson replied that Condition of Approval #26 states that the Engineer and the Planning Director need to decide whether any changes to the wall is substantive and need to come back to the Planning Commission. Commissioner Suesser asked about the need for the applicant to amend the CUP. Director Erickson needed to look at it, but he was following the condition of approval. Commissioner Suesser asked if the public would have another

opportunity to express their concerns if Director Erickson and the City Engineer make the final decision.

Director Erickson was uncomfortable talking about a project that no longer exists. He would check the Conditions of Approval to find out the next steps. City Attorney Harrington stated that depending on the type of remedy that comes forth, there would likely be an appeals process for administrative determination of that Condition of Approval. However, without knowing a specific solution, he was not able to comment with any degree of specificity.

Commissioner Suesser stated that previously the Planning Commission spent a lot of time on the Alice Claim project, and particularly on the wall. She thought the Planning Commission would like the ability to review the proposed resolution of the error. She noted that Commissioner Phillips and Commissioner Thimm were also involved with the Alice Claim project approval, and there were concerns among the Commissioners about what happened and a potential resolution.

Director Erickson stated that the Planning Department received written comments that would be added to the file. The Staff tried to do the right thing by bringing the wall change to the Planning Commission. However, the withdrawal was a late action and he needed to look at what the applicant was proposing. Once he makes a decision, it can be appealed.

Chair Phillips clarified that he was on the Planning Commission when the Alice Claim project was discussed, but always recused himself and did not take part in the discussions.

CONTINUATIONS - (Public Hearing and Continue to Date Specified)

- 5.A. 2080 Gold Dust Lane and 2211 Sidewinder Drive – Zone Change – The Applicant is Proposing a Zone Change for Parcels PCA-3-3002-1 and PCA-3-3002-1A, also known as 2080 Gold Dust Lane and 2211 Sidewinder Drive, from Residential Development (RD) to General Commercial (GC).
(Application PL-19-04353)

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

MOTION: Commissioner Kenworthy moved to CONTINUE the 2080 Gold Dust Lane and 2211 Sidewinder Drive zone change application to a date uncertain. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

WORK SESSION

- 7.A. Alice Claim, Intersection of King Road, Ridge Avenue and Sampson Avenue – Provide Input on the Built Retaining Wall Greater than Six Feet in Height which Requires a CUP.

This application was withdrawn.

- 7.B. The Planning Commission will conduct a Work Session on Nightly Rentals, a Conditional Use Permit in the Historic Residential-Low Density Zone Section that includes Residences along Sampson Avenue, Ridge Avenue, and King Road.

Planner Rebecca Ward stated that this work session regarding nightly rentals was specific to the Historic Residential-Low Density West Zone. The Staff had prepared information on overall nightly rentals in response to a request for an updated comparison of the current information with what is included in the 2014 General Plan.

Planner Ward stated that the General Plan recommends that nightly rentals are focused near the base areas; and overall nightly rentals are allowed in most zones. Nightly rentals are prohibited in the recreation open space, which was shown in red on the nightly rentals map. Nightly rentals are prohibited in the Single-Family Zone, with the exception of Prospector Village. Nightly rentals are allowed in all but two subdivisions within the Residential Development Zone.

Planner Ward reiterated that most zones allow nightly rentals; however, the one outlier is the HRL zone, which requires a conditional use permit.

Planner Ward reported that this year there are over 2,000 licensed rentals, but it is estimated that there are anywhere from 4,000 to 4,500 nightly rentals. When a homeowner lives on site and rents out their property a business license is not required, which might account for the difference in the numbers. Planner Ward noted that some CC&Rs prohibit nightly rentals. Night rentals are prohibited in any of the deed restricted Affordable Housing units.

Planner Ward stated that the General Plan data from 2012 estimated that approximately 46% of all the housing units were nightly rentals. The 2020 housing

update shows over 9,000 housing units. For the past eight years, approximately 45% of all residential units are nightly rentals.

Planner Ward reported that in the last three years there have been nine formal complaints. The majority of these complaints are for nightly rentals that are believed to be operating without a license or in a zone where nightly rentals are prohibited. Noise, trash and parking might be the underlying causes for the complaint. She noted that five cases are closed and four cases are still pending. Planner Ward explained that the process for the complaints goes through the Deputy Building Official, who sends a notice to the property owner. The property owner is given the opportunity to cure the issues in the complaint. If necessary, it can go through the administrative process to address the violation and revoke the business license.

Commissioner Suesser asked if the Planning Commission could hear the details on the five complaints that are closed. She was unsure whether the Staff could discuss the details of the ones still pending. City Attorney Harrington was not opposed to giving out general information on what the complaints involved; but it was inappropriate to have an on the record discussion of pending cases. Commissioner Suesser clarified that she only wanted an idea of the concerns.

Planner Ward stated that the four pending cases were nightly rentals in zones where nightly rentals are prohibited. Director Erickson stated that the primary complaints are noise, parking, late night parties, no business license, or nightly rentals where they are not allowed. He noted that the Staff hears a lot of complaints from the neighbors but not everyone wants to file a formal complaint. Commissioner Suesser assumed the number of complaints was greater than just the formal complaints. Director Erickson answered yes.

Planner Ward commented on the HRL Zone. In 1987 the Code was amended to allow nightly rentals. In 2000 it was amended again as a conditional use. In 2014 the HRL zone specifically was called out for extra attention with nightly rentals. She noted that in 2015 nightly rentals were prohibited in the McHenry Street HRL area. The Rossi Hill area was later rezoned to HRL and nightly rentals are prohibited. Planner Ward remarked that the nightly rental conditional use permits are allowed in the triangle area with residences along Sampson, King Road, and Ridge Avenue.

Chair Phillips stated that he was on the Planning Commission when the Rossi Hill rezone occurred. He asked if the Planning Department received complaints at the time or since then from the owners that were included in the rezoned area. He recalled that the rezone encompassed more area than what was discussed in open sessions and he wanted to know if the homeowners in that area complained that the City had

overreached or did anything to cause a negative impact. Planner Ward stated that there have been questions about the change in the zone and the limitations on nightly rentals in the east pod. She stated that based on the 2015 Staff report and meeting Minutes, the public input at that time supported no nightly rentals in the McHenry zone, but she was not aware of any further comments.

Planner Ward stated that since 2000, she found six conditional use permits in the HRL West Zone that have been approved. Of those six, two are currently active and three are pending. They were in the application process for the building inspection review. Based on the formal complaint process, no formal complaints have been made against these specific properties since 2017.

Commissioner Sletten wanted to know the status of the sixth conditional use permit if two are active and three are pending. Planner Ward replied that currently there was no application for a business license and there is no indication at this time that the owner intends to renew the license. The conditional use permit is still valid but the business license has expired. Planner Ward stated that all the conditional use permits that have been approved by the Planning Commission for this zone would continue to be valid as long as long as there is a valid business license.

Planner Ward requested that the Planning Commission provide feedback on the conditional use permits and any complaints from what was recently approved, and to see if the Planning Commission wanted the Staff to do additional research into CUP criteria for nightly rentals, or provide additional information.

Commissioner Sletten was struck by the number of nightly rentals being twice the number of licenses. He understood that there is an exemption for an owner who lives in the home; and that there are State regulations against maintaining surveillance over those not in compliance. However, he thought it was a big delta. Given those regulations, Commissioner Sletten asked what the City could do in terms of enforcement. Planner Ward replied that the City provides a notice and that increases the number of people who apply for business licenses. She remarked that the average is approximately 2,000 licensed nightly rentals each year with approximately 4,000 operating.

City Attorney Harrington explained that there was a period where the State Legislature took an active role. The League of Cities and Towns had negotiated a stay on enforcement action pending that at the Legislature's request in order to mollify attempts to preempt municipality authority all together on night rentals. A compromise moved forward, but the League of Cities and Towns still opposed the legislation, which resulted in a carve out. There is a limitation on the ability to use online postings as a sole

means of enforcement. That created a lag as the process went on. Mr. Harrington reported that currently the City employs a third-party service that provides a follow-up process, and that has resulted in several hundred additional business licenses per year. This has been the process for approximately two years and it should continue to close the gap rapidly moving forward. Mr. Harrington stated that aside from the notification process, Park City is complaint-based enforcement and the City does not monitor those electronic listings unless they get a complaint.

Commissioner Sletten asked if the lodging industry or a lodging owner have the opportunity to initiate a complaint. Mr. Harrington stated that anyone can initiate a complaint. Commissioner Suesser asked if it needs to be a formal complaint. Mr. Harrington did not believe so. If someone makes a complaint Code Enforcement will look at it. Mr. Harrington pointed out that without the ability to utilize the electronic data, enforcement needs to be based on personal observation or other evidence. It is always better to have people come forward because they are often needed to observe the conditions. Commissioner Suesser asked if the City tracks the informal complaints that come in daily. Director Erickson answered no. Commissioner Suesser asked if the service hired by the City tracks the complaints. Mr. Harrington replied that the service works directly with business licensing. They only do notifications for business license compliance.

Commissioner Hall wanted to know the City was getting so many informal complaints and so few formal complaints. Mr. Harrington remarked that the ratio is no different than with anything else. Formal complaints are few and far between. The complaint is typically from someone who wants to complain about their neighbor but do not want to be a registered complainant.

Dave Thacker, Chief Building Official, stated that for nightly rentals, some of the complaints are formalized directly toward the rental itself, or for other reasons. Other complaints relate to issues outside of a nightly rental, such as a noise, parking or other concerns. Those complaints are enforced differently. The indicators of what is informal and how those are tracked may not be directly related to nightly rental. It may be related more to the violation itself, which could be at a nightly rental but not directly related to the activity of nightly renting.

Commissioner Kenworthy asked if the City has tracked the TRT taxes from 2015 and whether those have increased every year. Planner Ward did not have that information this evening and offered to look into it. Commissioner Kenworthy assumed the TRT taxes were for nightly rentals in the zones for those with business licenses.

Chair Phillips noted that Planning Commissions have had lengthy discussions about nightly rentals over the years; and he owned a house in an area that is presented as a potential nightly rental zone. More than just complaints, he thought it was also important to look at keeping the fabric of the neighborhoods. In his years living there, he saw his neighborhood change drastically. The numbers may not reflect it, but his neighborhood transformed from being a neighborly place to second homeowners and more nightly rentals. Chair Phillips stated that it changed the feel of his neighborhood and it applies across the City. As the industry continues to expand, Old Town becomes more finite. Chair Phillips remarked that he would be looking at this issue from the standpoint of not allowing the entire town to be turned into a place that only supports the Resorts because they will lose the neighborhood feel. In addition to skiing, he strongly believes that the feel of the neighborhood and the people who live there also attracts the tourists. Chair Phillips thought they should seriously consider their options and have ongoing discussions because it is critical for the City.

Chair Phillips opened the public hearing.

Angela Moschetta, an Old Town resident, stated that she completely agreed with Chair Phillips about the anecdotal change in the fabric of the neighborhoods. Ms. Moschetta stated that a few years ago when she was new to the community process, she was concerned about chain stores on Main Street. At that time, she was told that this was Utah and there was nothing they could do. Being one who does not accept no for an answer, she sat down with several people and talked about tools and strategies that were implemented in communities that have something in common with Park City. Ms. Moschetta stated that different pieces of legislation and code were looked at and everyone cobbled together a version of something that worked for the Park City community. Understanding that the community is really concerned about the proliferation of nightly rentals because of the situation with the State and the fact that there is an affordable housing crisis, she would like everyone to get creative and use their bag of tools to see what simple code changes might be enacted to address nightly rentals, pedestrian safety, sustainability, traffic, getting cars off the road, and other issues. Ms. Moschetta stated that in New York City, snow removal is the responsibility of commercial and residential property owners. If sidewalks are not cleaned within a specified time after a snowstorm, the property owner is fined. She understands that in Park City not everyone is at their property every day, but it should still be their responsibility. They can contract with their tenants, property management companies, or outside service providers, but the snow must be removed.

Ms. Moschetta stated that her neighborhood in Old Town has small homes that were not designed for massive SUVs and seven cars per family. Vehicles that overhang the driveway should not be allowed because it impedes snow removal, traffic, and

pedestrians. She questioned why the City was not addressing that issue. Ms. Moschetta thought there should be sidewalks everywhere for pedestrian safety. She thought the City should use eminent domain to take front yards and driveways to put sidewalks in as a matter of pedestrian safety throughout the entire historic district and anywhere else where they want people to access buses and use public transit, or where there are large numbers of children.

With respect to nightly rentals, Ms. Moschetta stated that if someone wants a business license, the nightly rental should be required to maintain certain standards related to snow removal, trash sorting and recycling management, as well as installing motion sensor lights and lights on timers to reduce the amount of lighting. Parking passes should not be assigned to addresses. They should be non-transferable and assigned to vehicles. In Old Town, the number of parking passes issued per house should be limited. In terms of the complaint process, the complainant is encouraged to give their name and made to feel like a tattle-tell. She suggested putting a link on the parkcity.org website to give people an easy and anonymous way to be specific. If someone complains about a licensed property it could easily be checked. If a certain number of complaints come in on a property that is not licensed, that might be reason enough to check it out.

Sarah Berry stated that for the past 16 years she has owned and operated Silver Peak Properties, a property management company. She agreed with the sentiments expressed by Ms. Moschetta. She agreed that there are problems in Old Town and that the fabric of the community has changed. However, as a person in the industry, she learned through the Treasure Hill situation that there are unintended consequences. They deal with a tourism community that provides not only jobs but a service to one of the main drivers of the economy in this town. Ms. Berry clarified that it should not be a free for all and everyone is not perfect. There are a number of good management companies and she thought there should be more. Ms. Berry suggested that the industry should come together and look at other towns like Boulder and the Tetons. She noted that most resort towns have the same problems and it would be beneficial to understand what management companies have done in other towns to help solve these problems. Ms. Berry stated that better Code enforcement and Code changes are necessary and she would like to be a part of that process. In August her company grew too large for her to manage herself. She sold it to a company called Casago and they are in 18 different markets. Ms. Berry asked Steve Schwab, the owner of Casago, to speak to the Planning Commission this evening. She thought he could provide valuable information on what Casago has done in other areas such as Sedona, which has strict environmental rules and regulations. Ms. Berry suggested that Mr. Schwab and a few others in town could form a task force to give suggestions. Aside from a few well-intentioned people who understand the Code, the voice of the industry should also be

involved. It should be a joint conversation to come together and solve these problems in a creative and functional way for the community.

Delphine Comp, a resident on Daly Avenue, stated that Daly Avenue is a nightly rental nightmare. She has lived there for 10 years and is raising a family. They are surrounded by either monster houses that sit vacant, or other houses that are vacant because people can make more money in nightly rentals. Ms. Comp pointed out that it has affected their life significantly. They do not have air conditioning and they open their windows in the summer. There is so much noise that they had to call the police multiple times or go outside and yell at the renters. The renters have yelled back and she has been cursed at. The current situation, in addition to the construction that is building more monster houses for more nightly rentals, it is no longer a fun community to live in. She and her family are part of this fabric and they would like to continue to live there, but many people have already moved out because of this problem. When they sell their houses, the result is more nightly rentals. Ms. Comp liked what McHenry Avenue did to prevent nightly rentals and questioned why the same was not done for all of Old Town. She encouraged the Planning Commission to be bold in regulating nightly rentals. She asked if anyone really wants Old Town to become a large hotel. She would like to keep her family in their home. She has no intention of renting or selling her house because she likes the community, but they need to do something to preserve it. As a resident, Ms. Comp asked the Planning Commission to seriously think this through. She agreed 100% with the comments Chair Phillips stated earlier. Park City is not just a business and people like to live here, but nightly rentals are making it impossible. Traffic is awful and the trash is worse. If the economy crashes or the Coronavirus pandemic goes on, the nightly rentals will be affected and it could become a ghost town. She likes variety and diversity in a neighborhood and nightly rentals does not allow that to occur. She requested that the Planning Commission do for Daly Avenue and the rest of Old Town what they did for McHenry and have one regulation for everyone.

Steve Schwab, a local businessman in Park City, stated that he is the person who bought Sarah Berry's business. He provided a brief background of his experience. Ms. Schwab stated that he built a software company that runs at least half the vacation rentals in Park City and connects it to all the different OTAs throughout the industry. Mr. Schwab stated that he actually supports good and smart regulation. He worked with SB1350 in Arizona, which basically unregulated everything, and watched the blowback from that. Instead of having a good balance and being a good neighbor, it created a huge problem for the neighborhoods and the industry as a whole. Mr. Schwab stated that he started his own business when he was 28 years old in Mexico. Coming to the US and working his way through, he found that being a good neighbor and being part of the community is important. Without that, they lose the reason why

people come in the first place. Mr. Schwab stated that there are a lot of things the industry needs to do to support the community. They need to make sure they are providing those who rent safe places without sex offenders and other offenders. His company uses noise monitoring systems. They do public background checks on everyone who goes to their properties.

Mr. Schwab stated that throughout his time of doing business in different communities he has seen a many different techniques. If they go too far one direction it begins to hurt the economy and the people who invested in the property. He noted that Park City is synonymous with vacation rentals throughout the western United States. All the large names are in Park City and he understands that it creates a high density of vacation rentals. On the other hand, it is an opportunity to use the professionals who believe in what is best for the community. He suggested creating a Blue-Ribbon Committee or some type of community where the industry can self-regulate. Mr. Schwab commented on the neighbors' complaints about unruly guests and mentioned what other communities have done to remedy those situations, which includes fining the property owner if they do not have a local contact who can respond to the problem within 30 minutes. He did not think it was fair for the neighbors to be deprived of peacefully enjoying their property, or to burden the police force with enforcement.

Mr. Schwab stated that noise monitoring, enforcement, garbage and recycling practices, response times, density, and face-to-face check-ins makes for a healthy vacation rental community. He was interested in contributing to these discussions to help find the right balance to make sure that Park City continues to thrive, that the residents who live there can have peaceful enjoyment, and to find a responsible way for those who cannot live here all the time to be part of the community at a different level.

Commissioner Kenworthy noted that Mr. Schwab mentioned that he uses Noise Aware and other software. He asked if Mr. Schwab also uses Smartphone counters to keep track of the number of people going in and out of a home. Commissioner Kenworthy asked if Mr. Schwab would suggest that towns legislate these types of new technologies for nightly rentals.

Mr. Schwab stated that SB2742 from Arizona recently tried to pass that legislation and it failed. However, he did think it should be part of legislation. Mr. Schwab remarked that face-to-face check-in, 30 minutes response times, and mandatory background checks do more to control the problems than Noise Aware or phone counting. Mr. Schwab clarified that he does not use Smartphone monitoring because there are problems with it and liability issues through hacking. He does favor noise monitoring programs. Mr. Schwab thought the burden should be higher on vacation rental owners to make sure they are good neighbors every day and acting in good faith with the community.

Commissioner Kenworthy noted that Mr. Schwab had used the word balance. He asked what he thought about a 50/50 community, considering that Park City's percentage has held near 50% in the last four or five years.

Mr. Schwab did not think 50/50 was bad. Park City is known as the vacation rental mecca. Commissioner Kenworthy remarked that some towns have gone way beyond and other towns are way under 50%. He asked Mr. Schwab what percentage he has seen, where the community still has the quality of life they are trying to provide in Park City. Mr. Schwab thought it was an unfair question in the sense that every community was founded and created in different ways.

Mr. Schwab appreciated the opportunity to speak and offered to provide his contact information if any of the Commissioners have questions.

Chair Phillips closed the public hearing.

Chair Phillips stated that in his opinion it was not drastically changing anything or taking something away. It was trying to figure out the threshold. Planner Ward had said that Park City has been hovering at 45% for years. Chair Phillips remarked that the Planning Commission was looking at the HRL-West zone this evening, and the Planning Commission spoke about that zone when they rezoned McHenry because it was zoned the same and the neighborhoods were similar. Chair Phillips recalled the Planning Commission discussed putting a cap across the City but realized that it would get a lot of pushback. It also seemed like a lot to take on at the time. He stated that these are all baby steps that change very little City-wide. Chair Phillips noted that the idea was to create pockets to preserve. He liked the idea of looking at the HRL-West zone. Chair Phillips stated that there are also neighborhoods that get more impacted because they are difficult to reach. He thought a bigger part is making sure they preserve the City they have. If Park City gets a rush and they are not prepared and the number jumps to 60%, they will have gone past the tipping point. Chair Phillips recommended finding a way to put a threshold or a cap reasonably with room to grow, know that nightly rental is a strong industry that should be supported. The goal is to find a way to balance that with maintaining the fabric of the community. Chair Phillips was very interested in making progress because this is an important issue for many in the community.

Commissioner Hall referred to Section 4-5-3, which talks about management of nightly rentals. She thought it addressed most of the concerns. She read, "Management of Nightly Rentals must include winter snow removal of pedestrian paths and parking, summer yard maintenance, building maintenance and upkeep, timely removal of trash

cans from the street, housekeeping service, and management of on-street parking. Licensees must designate a responsible party who resides within a one-hour drive of the property.” Planner Ward stated that Municipal Code Section 4-5-3 outlines the standards. The enforcement is complaint-based. For example, if there are nightly rentals where there is no snow removal, the City relies on a complaint coming in so they can go out and make sure the standards are met.

Commissioner Hall stated that as a resident, she thought this was an obvious issue. The property managers are aware it is an issue and the Code calls it out. She understood that enforcement is complaint based, but something needs to change. If the Municipal Code requires clear pedestrian paths and sidewalks to enable residents and visitors to utilize the sidewalks and that is not being done, in her opinion, complaint based is not working.

Commissioner Suesser thought the complaint system needed to be revised or reformed. The City should be tracking informal complaints, and they should make it easier for residents to file complaints. If it is generally an informal complaint that gets a response, and there are multiple complaints against a particular property, the property management company should be aware that there a series of complaints. Commissioner Suesser also thought the City should have a system to obtain police reports and their responses to complaints regarding nightly rentals. She emphasized that the City needs better data. Nine recorded complaints in four years was not accurate when they obviously get daily complaints.

Commissioner Suesser recommended looking into a cap on the number of business licenses for nightly rentals. She was unsure whether it should be a percentage or an actual number. With building going on every day she thought it might need to be a set number.

Commissioner Kenworthy recalled that the General Plan tried to do that with the separated zones and he thought it was successful. In looking at the objectives they tried to make in the Code in 2012 and 2015, he believed they were at 50/50. He believed that was a good number and it has been maintained. Commissioner Kenworthy thought they had a choice of putting more density in places and taking away from the community feel if they put in more nightly rental zones. He thought the Code does it quite well and he commended the Staff and Planning Commission who worked to put it in place at the time. Commissioner Kenworthy pointed out that these neighborhoods were picked for specific reasons. Some have substandard streets. To flood these neighborhoods with substandard streets, dead-end streets, and other issues with nightly rentals creates more problems on those streets. Commissioner Kenworthy thought the Code was already there.

Commissioner Kenworthy agreed with the comments about revising enforcement because here might be a better way. However, local governments are limited due to State requirements. Commissioner Kenworthy stated that they will always be balancing the quality of life in the community versus the corporate resort situations that occur, especially as they go back through the General Plan. The issue needs to be addressed. Commissioner Kenworthy thought the City had come up with a balanced solution.

Commissioner Suesser stated that because the number is 46% now does not mean it will not increase. Planner Kenworthy believed the number remains consistent based on what the City previously did with the zones. Nightly rentals generate significant revenue and he would like to see more business licenses and everyone paying their fair share in taxes to help with issues such as snow removal and adding more sidewalks. He would like to see the City step up the enforcement so they can do more for the year-round community and the quality of life for the primary residents.

Commissioner Sletten referred to comments from City Attorney Harrington. The reality is that the State places restrictions on tracking nightly rentals. It would be difficult to put a cap on licensed nightly rentals because it would encourage more people to take advantage of the State law and not pay taxes.

City Attorney Harrington stated that it makes it more inefficient. The City Council evaluated complaint-based enforcement policy and systems, and some of that for certain segments of enforcement is mandated rather than complaint based. The property owner is given an opportunity to comply before fining for certain segments of enforcement in Utah. Mr. Harrington remarked that it makes it more expensive in a different policy prioritizing if the City cannot use the simplest way of enforcement. Part of the balancing is how much more resource allocation is needed to add to the system. Counterbalance to that is technological developments that close that gap because it becomes easier to cross-reference and it is no longer tracked manually. Mr. Harrington stated that it is always a timely effort to re-examine the complaint-based system, and the Planning Commission could request that the City Council look into it.

Commissioner Sletten clarified that his comment was not intended to be negative towards the City with respect to enforcement. He was only pointing out the limitations imposed by the State. Mr. Harrington wanted it clear that the limitations were more speed bumps than handcuffs.

Commissioner Hall understood that 46% of the housing stock was nightly rentals, but in terms of licensing, there are only 2200 active business licenses for nightly rentals.

Planner Ward explained that the 2200 active licenses are approximately 23% of the total residential units. Commissioner Hall remarked that half of the homes are nightly rentals, but only half have licenses. She thought it was a big discrepancy.

Director Erickson stated that nightly rentals have been in Park City for a long time. The nightly rental ordinance was never designed to prevent someone from renting out their house for a few nights once a year when they leave town. He noted that every nightly rental clause in the zoning ordinance says that commercial use is prohibited. However, it never considered any of the 100 management companies. Director Erickson explained that the ordinance was not designed to be punitive to the individual homeowner.

Commissioner Hall clarified that she was questioning the numbers because she did not believe 50% of those with nightly rentals live in their home. Director Erickson did not disagree, but they have not been able to find a way to measure the incremental impact of nightly rentals outside of the Historic District versus multiple single users of a large house. The Staff was still working through some of the technical aspects. For this work session, Planner Ward was specifically asking for feedback on the west side zone of HRL and whether the Planning Commission wanted to change the strategy.

Chair Phillips stated that if they want to make a difference they need to start somewhere. He thought they should look at the HRL-West District and consider which areas make sense for nightly rentals. Director Erickson noted that a number of complaints are coming in from Prospector. The problem is there is no way to tell whether it is a nightly rental or a six-bedroom house being rented out to eight people. Commissioner Suesser pointed out that this was a good example of why they need to be able to track the complaints.

Commissioner Hall did not think they should be allowing more nightly rentals until they fix the process. She thought there was some agreement among the Commissioners that the system is broken. Director Erickson believed there was sensitivity to that, and they would prefer to deliver housing rather than nightly rentals. However, it should not be so restrictive that someone could not rent their house for three nights while they go on vacation. The question is whether the Planning Commission thinks they have reached the limit of nightly rentals in the HRL-West zone.

Commissioner Suesser wanted to know why they were only looking at one zone. Chair Phillips replied that the Planning Commission raised the issue when they saw a wave of nightly rental applications in that zone. They also spoke in length about this particular area. Chair Phillips thought this was an area they could look at and try to resolve some of the problems. He liked this step to move it forward. Chair Phillips stated that they

would never change all nightly rentals across the City, but they need to start somewhere and this was a place to start. Chair Phillips thought they should look at putting a cap on this particular neighborhood because they already know the impacts. He also thought it was important to add additional conditions because the Planning Commission added conditions specifically to this District. They should go back and look at those conditions and make it part of the CUP.

Chair Phillips asked for the number of total units in that area. Planner Ward replied that in the HRL-West zone there are 61 total parcels. There are 35 residences, of which 16 are primary residences and 19 are secondary. Within those 35 residences, six are conditional use permits. Chair Phillips favored capping the number at 10 residents. That would still leave four properties available for nightly rental. He felt strongly that it was important to protect that neighborhood.

Commissioner Suesser asked if this would include the Alice Claim homes that would be built. Planner Ward answered no. The Alice Claim homes are in the Estate and the HR-1 zone. However, Alice Claim owns the two Ridge Avenue subdivision properties in the HRL zone.

Commissioner Kenworthy thought they should cap the number where it is right now and not allow additional applications. The roads are problematic and substandard, and the intrusion to the neighbors is already documented. It is a difficult neighborhood to have nightly rentals. He agreed with Commissioner Hall that the City should cap the currently number of nightly rentals until they can address the issues.

Director Erickson stated that in terms of land planning, the City needs to consider that the Code was written for this side of the hill before the buildout was complete in the neighborhood. Parking on the street no longer exists because of the new driveways and new houses. Director Erickson thought their comments were worthy of consideration, but they need to understand the underlying land use principles. He was unsure whether additional research on nightly rentals would produce anything different than what they already know. He was unsure whether they could respond to the conditional use criteria because it is difficult to enforce. Director Erickson suggested that the Commissioners should either not make any changes or try to manage the total number of nightly rentals in the neighborhood. He pointed out that the Municipal Code has controls on nightly rentals that the Planning Department cannot control. He noted that many of the phone calls they receive are not valid nightly rental complaints.

Commissioner Kenworthy noted that the density and the slope with buildout pushes more snow out into the street and there is no place or snow to be stored, which puts a pedestrian on very steep icy streets. He reiterated his preference to cap nightly rentals

in the zone to its current number. Commissioner Hall concurred. She looks forward to discussing nightly rentals in general in the future.

Commissioner Suesser commented on the allocation of resources as being a problem. If they reform the complaint system and make it simple, when someone calls in the person who answers the phone can direct them to an easy complaint form that they can fill out and send it. It reduces the burden on extra resources and it will help with tracking. She stated that if these complaints come in and the property management companies are alerted to the complaints, they would most likely address the problem. Commissioner Suesser thought the enforcement problem would be a lessened if the complaint system is reformed.

Director Erickson thought some of the comments by the professional property manager were worth noting and he intended to research some of the suggested concepts further.

Commissioner Sletten assumed many of the complaints are on properties that are not managed by professional property managers.

Commissioner Van Dine thought it would be interesting to look at some of the other communities that are similar to Park City in terms of how they enforce and track. She agreed that Park City needed to find a better system for tracking the complaints. That information would be significant in figuring out how to move forward. Commissioner Van Dine also agreed with capping the HRL-West zone where it is right now. They could then move on to looking at the different districts with new tracking and updating policies for the CUPs.

Commissioner Sletten agreed with Chair Phillips that there should be a little overlap. He was not opposed to capping at the current level, but they could be closing the door on some exceptions. Chair Phillips preferred to leave a couple open to avoid creating a panic.

Commissioner Kenworthy noted that they have already approved six CUPs in that area and none of them match with the conditions of approval. If they receive another application it will have a different set of regulations and conditions of approval. He thought it was a slippery slope.

Planner Ward stated that based on the feedback the Commissioners provided this evening, the Staff could come back with a Code and put it on the schedule sooner rather than later.

Commissioner Suesser wanted to look at a potential cap on the rest of the zones where nightly rentals are permitted. She thought they needed to consider a cap on nightly rentals zone wide. Commissioner Hall and Commissioner Sletten agreed. Commissioner Suesser stated that she was not convinced they should put a cap on the HRL-West zone, but she was willing to consider it. She thought the number was arbitrary.

City Attorney Harrington stated that a cap cannot be arbitrary. Similar to the Main Street program, there needs to be a rational basis for arriving at that numbers. The Staff will come back with reasons for setting a cap and the Planning Commission would need to find that those reasons are real.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

8.A. 962 Woodside Avenue & 968 Woodside Avenue – Plat Amendment – The Applicant Proposes to Combine Lot 17 and Lot 18 of Block 3 of Snyder’s Addition into One (1) Lot of Record.

Planner Alexandra Ananth presented the application on behalf of Planner Kuhrmeyer, who was out of town.

Planner Ananth reviewed the proposed to combine two 25’ x 75’ standard Old Town lots into one larger lot. At the request of the City Engineer, a dedication was added for a portion of the roadway that encroaches into the parcel.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the project based on the findings of fact, conclusions of law, and conditions of approval found in the Staff report.

Commissioner Suesser noted that the Staff report indicated good cause was to clean up the lot lines. However, if they are two standard Old Town lots, there should be no lot line irregularities. Planner Ananth stated that she had the same question when she read the Staff report and thought Planner Kuhrmeyer may have been referring to the road dedication. She had no other answer because it only involved the road dedication and the lot combination. There were no issues with respect to cleaning up the lot lines.

Commissioner Suesser asked how combining the two lots was consistent with the purpose of the HR-1 District to preserve present land uses and encourage construction of compatible homes of the same character and scale of the Historic District. She questioned why they would allow a potential duplex rather than two single-family homes on the two lots.

Commissioner Van Dine noted that the goal was to build a single-family home. Commissioner Suesser replied that the size would permit a duplex. She still questioned why the Staff felt there was good cause.

Planner Ananth stated that she forgot to mention that an illegal gravel parking area would be removed with this proposal. She noted that Planner Kuhrmeyer had mentioned that there were other double-wide lots in the neighborhood and this was consistent with the surrounding neighborhood.

Chair Phillips stated that he had questions on whether this was consistent with the neighborhood, but it appeared that Planner Kuhrmeyer found other lot combinations. Director Erickson referred to the plat map and noted that the gray identified combined lots or a re-subdivision.

Director Erickson stated that if the Planning Commission wanted a greater discussion on density in the Historic Districts, they could add it to the list of policy questions for a future meeting. Chair Philips favored that idea.

Director Erickson pointed out that vehicle traffic may be reduced by combining the lot and only having one unit. It would also reduce to one driveway in that location. However, he recognized that those are “what ifs” and not guarantees. Planner Ananth noted that one house versus two would also potentially minimize the amount of construction.

Commissioner Suesser asked if the four lots directly across Woodside from the two subject lots was multi-family or four single-family lots. Director Erickson thought it looked like the lot lines were still intact and it was re-subdivided into what appears to be four lots. He offered to look at it further. Commissioner Suesser clarified that she was only trying to understand how this was consistent with the purpose of the HR-1 District and good cause to combine the lots. She thought this deserved a bigger discussion.

Commissioner Sletten thought it should be a policy matter rather than individual applications.

City Attorney Harrington stated that the Planning Commission could request more clarifying information from the Staff regarding Commissioner Suesser’s questions if they do not feel there is sufficient good cause for this application. The second issue is a broader question related to the permitted conditions in which they generally consider plat amendment zone by zone. He believed that issue required a broader policy discussion. Mr. Harrington noted that at one time Old Town had affirmative General

Plan language that preferred lot combinations for off-street parking, snow removal, and other issues. That was eventually modified to be a case by case determination based on compatibility and good cause. He stated that there has been an evolution in the permissiveness of lot combinations. The Planning Commission can have that policy discussion again if they feel it is necessary. However, it is important to treat everyone the same under the existing Code, and permitted uses are generally considered good cause because they are permitted in the zone. If the Planning Commission would like to re-evaluate permitted uses in the zone and not enable those by plat amendment, they should have the broader policy discussion.

Chair Phillips thought that was in line with his comments at the last meeting that it is not fair to the applicant to have policy discussions while reviewing the application. Chair Phillips emphasized that it should be added to the list of work session discussions.

Commissioner Suesser thought the topic should be more of a policy discussion about combining lots in Old Town and whether or not it is consistent with the Historic District. The Commissioners concurred.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

Commissioner Suesser stated that she thought this application was inconsistent with the purposes of the HR-1 District and she could not find good cause to combine the two lots.

Commissioner Sletten disagreed, given the precedent in the neighborhood. He remarked that good cause can be found in a number of ways, including reducing curb cuts for driveways and keeping cars off the street. Commissioner Sletten thought they should relook at the policy, but it would be inappropriate to deny this application.

Commissioner Van Dine agreed with Commission Sletten. She noted that per the application, the project intent is to build a single-family residence on the two properties. She believed that was consistent with the character and the goals of the HR-1 District. In her opinion, reducing driveways and a single-family home on the lot would be preferable. Commissioner Van Dine did not think they could deny this application because of the precedence that has already been set in the neighborhood.

Commissioner Hall asked if the Planning Commission could condition the approval to only allow a single-family dwelling. Chair Phillips stated that over the years, he has learned that people have one idea in mind but it can change for various reasons. For example, an owner could sell the property and a new owner could build a duplex. He asked if it was appropriate to condition the approval to a single-family structure. City Attorney Harrington stated that the Planning Commission could condition it if they could articulate a rationale, such as finding that single-family meets good cause because of the reduction in density, reduction in driveway, and occupancy, resulting in net positive impacts. For that reason, the Planning Commission would recommend an additional condition of approval to the City Council.

Chair Phillips was hesitant to do that because the applicant was not present and would not have anticipated the additional condition.

City Attorney Harrington stated that the Staff could discuss it with the applicant, and if the applicant objects, they could request that the City Council remand it back so the applicant can discuss it further with the Planning Commission prior to a recommendation. If the applicant accepts the added condition of approval, the City Council can proceed with the plat.

The Planning Commission accepted that explanation and preferred to move forward with recommending the condition of approval.

Commissioner Hall thought it was good to have the condition of approval and Mr. Harrington's suggestion on how to address it. She also favored having a broader policy discussion.

Commissioner Kenworthy found that combining the lots was consistent with the neighborhood.

Director Erickson clarified that doubling the lot size does not double the size of house that can be built. The square footage reduces proportionately on the lot size. Director Erickson was comfortable with the action the Planning Commission was taking and the Staff would brief the applicant.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the plat amendment for 962 Woodside Avenue and 968 Woodside Avenue based on the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the draft ordinance as amended, with the addition of a condition of approval that the structure be limited to a single-family home, and with the additional findings as suggested by the City Attorney. Commissioner Van Dine seconded the motion.

MOTION: The motion passed 4-1. Commissioner Suesser voted against the motion.
Findings of Fact – 962/968 Woodside Avenue

1. The subject property is located at 962 Woodside Avenue and 968 Woodside Avenue.
2. Once combined, the Lot will be addressed 962 Woodside Avenue.
3. The site is within the Historic Residential (HR-1) District.
4. The property is vacant, with the exception of a gravel “parking” area. This will be removed prior to recordation, per condition of approval # 5.
5. The Plat Amendment application is a request to combine Lot 17 and Lot 18 of Block 3 of Snyder’s Addition into one (1) Lot of Record.
6. The proposed Lot consists of 3,750 square feet and meets the minimum Lot Size for a Single-Family Dwelling (1,875 square feet) and for a Duplex (3,750 square feet).
7. The proposed Lot measures fifty feet (50’) wide and seventy-five feet (75’) deep and meets the minimum Lot Width of twenty-five feet (25’).
8. The proposed Lot Size is compatible with existing lots in the neighborhood and in the overall Historic District.
9. The minimum required Front and Rear Setbacks for the proposed Lot would be 10 feet.
10. The minimum required Side Setback for the proposed Lot would be five feet (5’) for the interior lot line and five feet (5’) for the side that faces 10th Street.
11. The maximum building footprint for a Lot this size is 1,519 square feet.
12. The maximum Building Height of any new Structure would be twenty-seven feet (27’) from Existing Grade.
13. Any new Structure would also be need to meet parking requirements per LMC § 15-3.
14. Staff finds good cause for this plat amendment in that it will clean up the property lines at this location. The proposed Lot will comply with zoning requirements for Lot Size, Width, and Depth. Additionally, public snow storage easements will be dedicated with the recorded plat.
15. The proposed single-family use meets good cause because it reduces the density, number of driveways, and the occupancy; resulting in net positive impacts for the surrounding neighborhood.
16. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 962/968 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 Plat Amendments.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 962/968 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 shall 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. The plat shall note that fire sprinklers are required for all new or renovation construction on this lot, to be approved by the Chief Building Official.
4. All existing encroachments, including the gravel pad, shall be removed prior to recordation of the Plat.
5. The existing gravel pad shall be removed prior to recordation of the Plat.
6. A ten foot (10') public snow storage easement on both street fronts shall be noted on the Plat.
7. The property is not located within the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore it is not regulated by the City for mine related impacts. However, 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.
8. A note shall be added to the Plat stating that the Site is located within the FEMA Flood Zone X.
9. All development shall provide elevation certificates certifying compliance with the minimum FEMA Flood Zone Requirements.
10. 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.
11. A structure on the lot is limited to a single-family home.
12. The applicant shall dedicate to the City the portion of the lot that encroaches into the City's platted right of way.

8.B. Deer Crest Club, 2300 Deer Valley Drive East – Modification of Existing Conditional Use Permit - Consideration to Amend the Existing Conditional Use Permit for the Deer Crest Club In Order to 1) Expand the Maximum Membership of the Deer Crest Club from 195 to 290; and 2) Allow Space in the Phase 2 Building Under Construction to be Used for Club Facilities. The Deer Crest Club is an Amenity Club Approved Pursuant to a CUP on February 23, 2011. (Application PL-19-04255)

Planner Ananth reviewed the application to modify an existing conditional use permit for an amenity club with up to 195 members, which was approved in 2011. The applicant was now proposing to increase the cap to 290 memberships, as well requesting allowance for space in the Phase 2 building to be used for additional amenity facilities. Planner Ananth reported that the space in the Phase 2 building is 2,183 square feet, and it would be used as a members' lounge and ski locker amenities.

Planner Ananth reported that the applicant submitted a table showing the parking during various phases of construction. Phase 2, which is nine condominiums and parking, is currently under construction. A third phase has been approved with a CUP. She presented a slide and noted that the green column indicates the number of spaces that will be provided during each phase of construction. With Phase 2 under construction, 395 parking spaces are available among the three St. Regis parking areas. That number will increase to 440 with the completion of Phase 3.

Planner Ananth stated that amenity clubs do not have a parking requirement under the Land Management Code. However, the applicant has submitted numerous parking studies over the years and each study indicated a significant number of excess parking stalls in addition to those required, as well as an addition to their actual demand. Planner Ananth reported that in addition to having a parking surplus, the hotel utilizes valet and shuttle service to move cars around as needed between the lots.

Planner Ananth noted that the 2011 parking analysis showed that during the busiest weeks of Christmas and Sundance, and with the hotel at maximum occupancy, the parking use was at 46% capacity. In 2017 another study was done which noted that 62% of the parking was required at peak demand, leaving 154 empty stalls on the busiest day at full occupancy.

Planner Ananth stated that of the 95 proposed new members being requested, 23 will be reserved for the buyers of Phase 2 and Phase 3 condominiums. The membership will be part of the condominium purchase. That would leave 72 available memberships to the general public.

Planner Ananth reported that a 2019 trip generation and parking study predicted that a maximum of 33% of the new members would be present at the amenity club during a peak day; and 50% of those members would drive and 50% would use alternative means to access the amenity club through skiing, walking, carpooling or shuttle. Planner Ananth remarked that the analysis assumed that the remaining members would generate new vehicle trips. Thirty-five percent of those trips would be during morning peak hour, and 35% would likely be during the evening peak hours, resulting in 24 new trips on the busiest day of the year. Vehicle trips and parking demand would be significantly less the remainder of the year. Planner Ananth noted that this results in a peak parking demand of 13 additional vehicles on the busiest day of the year. Based on the existing parking at the hotel, Hales Engineering concluded that there is sufficient excess parking to absorb the proposed parking needs of the 95 additional memberships.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the requested CUP, subject to the findings of fact, conclusions of law, and conditions of approval in the Staff report.

Planner Ananth recommended a modification to Condition #7, which states that a parking study be submitted within one year of receiving the final Certificates of Occupancy for Phase 3, with a review of Club operations. She initially suggested that the study be submitted to the Planning Commission; however, based on the fact that there is excess parking capacity, she thought it would be more appropriate to submit the study to the Planning Director. If the Planning Director determines that further action is necessary, he could forward the information to the Planning Commission.

Chair Phillips was comfortable with submitting the study to the Planning Director in this case.

Tom Bennett, Legal Counsel to the applicant, introduced Michael Zaccaro from the ownership group of the St. Regis Hotel. Mr. Bennett thanked Planner Ananth for her thorough review of this application.

Mr. Bennett added additional information he thought was important. He stated that with this application for an amendment and adding to the number of club members, there was not proposal to change the design or square footage of the Phase 2 building. The space that will be used for the club in the Phase 2 building was always designed as part of the space. If it were not used as a club, Marriott would require it to be used as an owners' lounge per their branding requirement for condominium projects. Mr. Bennett emphasized that no new space was being added in connection to this proposed modification to the club.

Mr. Bennett noted that additional parking was not required for this modification because of surplus parking over the years. He explained that the extra parking was based on a number of issues. The first is that parking was determined for all three phases of the project as a whole from the beginning, which was based on 130 UEs in full plus a significant amount of commercial and meeting room space. Mr. Bennett thought it was unlikely that the project would use all 130 UEs for this project. Roosevelt Gap was originally intended to be 99.5 UEs and it only used approximately 96 UEs. As the hotel has developed, they will not be using all the allotted support commercial or meeting room space. Mr. Bennett stated that after running the numbers for the completion of the project, only 58.4% of the allowable support commercial and meeting room space will be used. Mr. Bennett stated that at the beginning the City was not sure how to determine the amount of required parking and he thought the parking was calculated based on a traditional condominium project.

Mr. Bennett stated that regardless of the reason, there is clearly excess parking. He presented a slide of a table showing the CUP parking required. He noted that those numbers came together in 206 when there was a substantial modification of the CUP. At that time, Kirsten Whetstone, a former planner, did a detailed analysis of the parking requirements as originally approved and utilized. Mr. Bennett stated that in an interest to make sure there was adequate parking, there is more than sufficient parking throughout every phase.

Mr. Bennett noted that the applicant was asked to address the issue of what happens when Phase 3 is built. Phase 3, which is the northern part of the Snow Park parcel, currently has 61 parking stalls. During the course of construction those 61 spaces will not be available. The initial reaction was how to plan for that. Mr. Bennett remarked that the answer is the fact that there is already sufficient surplus parking to address that issue. Mr. Bennett stated that in the 2017 parking study, on the busiest hour of the busiest day, there were 154 total vacant parking spaces in the hotel, including 62 vacant spaces at Roosevelt Gap. Those 62 spaces would make up for the 61 spaces being lost below. He noted that at the busiest hour in the traffic study there were 169 parking spaces occupied in Roosevelt Gap and Snow Park. Under the current plan, during the construction of Phase 3 there will be 196 spaces available at Roosevelt Gap and Snow Park. Mr. Bennett pointed out that there will be surplus parking to make up for any parking that will be temporarily lost during construction of Phase 3. In addition, the intent is to plan a construction period that only affects one ski season.

Mr. Bennett commented on the need for a parking and mitigation plan. He noted that a parkin and traffic mitigation already exists. The primary mitigation factor is that the club has shuttle buses available to its members. On a typical day at the club, only 50% of

the club members arrive in a private single-family vehicle. The other 50% use the shuttle, ski, or they are already in Deer Crest. Mr. Bennett thought the parking was effectively mitigated. Mr. Bennett stated that another mitigation factor is the limitation on the number of memberships that can be sold to people who reside outside of the Deer Crest gates or the St. Regis hotel. The applicant was currently proposing that at least 45 of the 195 memberships must be for people within Deer Crest or the hotel. With the increase in membership, the applicant was proposing to increase the number to 65 memberships that must be for members in Deer Crest or the hotel.

Commissioner Kenworthy asked for the total number of memberships that would be sold to outside members. Mr. Bennet replied that 290 memberships minus the 65 restricted to Deer Crest and the hotel leaves a total of 225 memberships for outside members.

Director Erickson clarified that most of the existing memberships have already been sold. Mr. Bennett recalled that out of the 195 existing memberships, 194 are sold at this point. The requested 95 additional memberships would be in addition to the ones that have already been sold.

Commissioner Kenworthy congratulated Mr. Zaccaro on the club. He has been in there and it is a tremendous success. He asked for clarification on the number of people and the number of trips anticipated for the 225 outside members. Mr. Zaccaro stated that the traffic study and the information provided in conjunction with the application only took into account the existing 195 memberships. On the busiest day of the last two years, which happened to be the day of their holiday party, the total number present at the club on that day was 65 members. Of those 65 members, approximately 33 members drove to the hotel. That number includes people who live within Deer Crest driving to the hotel without using any of the main roadways in Park City. The total trips on the busiest day over a two-year period were 33 car trips. Mr. Zaccaro stated that the additional memberships would add 9 additional trips in the morning and 9 trips in the afternoon on the busiest day. He pointed out that regardless of the club, some of those people would be coming to ski at Deer Valley anyway.

Mr. Bennett agreed that most of the people coming to the club would be coming to Deer Valley anyway. Having additional members and additional parking available at the club actually takes some cars out of the Deer Valley public lots.

Commissioner Sletten stated that his friends who are members of the club tend to rely on the shuttle service. If not for the club and the shuttle service, his friends would be driving to the parking lots. Commissioner Sletten thought increased membership could actually reduce the number of total car trips.

Commissioner Kenworthy asked if club members who are not owners at Deer Crest are allowed to park at the hotel. Mr. Zaccaro stated that if they live at Deer Crest, they are allowed to park at the bottom. Commissioner Kenworthy clarified that he was asking about non-Deer Crest owners. Mr. Zaccaro replied that the majority of those members park at Snow Park and come to the hotel from the funicular. Depending on how they need to manage the overall parking for the upper resort and lower resort, cars are then shuttled up to the main hotel if necessary, to make parking available at the lower resort. He clarified that non-owners cannot drive their car through the gate, but the valet can drive their car up to the hotel. People are not allowed to drive through the gate unless they own at St. Regis or own property at Deer Crest. Commissioner Kenworthy stated that he was focused on the morning hours on power days where they have seen recent increases in the parking at Snow Park. He wanted to make sure that Deer Crest has a contingency plan that allows for club members to have available parking spaces on the upper lots in the hotel. Mr. Zaccaro replied that it is a contingency plan; and in addition, they were currently adding 35 additional spaces as they build Phase 2. When Phase 3 is built out, there will be two levels of below grade parking totaling 105 spaces.

Mr. Bennett wanted it clear that of the 95 additional memberships being requested, 23 will be reserved and used solely for the owners of the 23 new condominiums being built at Snow Park.

Commissioner Suesser asked if the 23 condos being built at Snow Park were both Phase 2 and Phase 3. Mr. Bennett answered yes. Commissioner Suesser stated that she was more focused on the change of use in the Phase 2 building from support space to amenity space. She wanted to confirm that the space will be restricted to a lounge and ski lockers, and that no other additional amenities were being contemplated. Mr. Zaccaro stated that club members will have access to the gym and other amenities that already exist at the hotel. He clarified that that space Commissioner Suesser was asking about would only be a seating lounge area and metal ski lockers. Commissioner Suesser thought use of the 2100+ square feet should be specified in the conditions of approval as being ski lockers and lounge space, and no other amenities.

Mr. Bennett noted that there is no way to know what will happen in the future and there might be a use more consistent with the times that could go in there. He was unsure how they could describe the limitation. He understood that it should not be used for retail space.

City Attorney Harrington suggested "Any change of use from applicant's proposed description as contained in Exhibit D would require returning to amend the CUP". The

applicant would need to come back and describe the change of use and make sure there is no adverse parking or other impacts.

Planner Ananth suggested leaving it to the discretion of the Planning Director as to whether or not a change would increase the parking and warrants a review.

Mr. Bennett pointed out that there was very little this space could be used for if not this. It could be some other form of support commercial space or meeting room space, and both of those could potentially increase the impacts. Commissioner Suesser stated that if the amenities would attract people who live in Deer Crest, it would generate more impacts than only attracting those who have residences in the hotel. For example, a spa, bar or restaurant in that space could potentially generate greater traffic to the space.

Mr. Zaccaro clarified that this space would be restricted for use only by people who own in Phase 2 or Phase 3, and it will be their amenity space to use.

Commissioner Suesser thought it might be appropriate to just exclude a restaurant. She read the definition of club amenities and all it includes. Her concern is an amenity that would generate a lot of traffic, such as a new restaurant. Commissioner Sletten pointed out that the restaurant would only be able to service the club members. With 65% of the space already taken up with lockers, it would be difficult to have a restaurant. Planner Ananth noted that Phase 2 already includes an approved restaurant.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

Chair Phillips was comfortable with the proposal. The parking was sufficient and he had no issues with the additional memberships.

Commissioner Hall asked if there was any feedback from the current Deer Crest members. Mr. Zaccaro stated that the members asked if they would have the ability to use both locations. However, that needs to be restricted because they do not physically have the space to expand into the existing building. Some members would like to change their membership to where they are now to the Phase 2 location because their children attend ski school at Deer Valley and that club location would be easier. In addition, members who drive to Snow Park and take the funicular up to the building

could eliminate doing that if they can use the Phase 2 location, especially if they plan to ski out of Deer Valley. Mr. Zaccaro stated that there are no negative impacts or negative concerns to existing members. The larger membership helps them in terms of managing overall costs. He reiterated that the only questions have been about access.

Commissioner Suesser clarified that she would not push for a condition of approval regarding the club space restrictions or a condition that it only be for lockers and a lounge.

MOTION: Commissioner Sletten moved to APPROVE the modification to the existing Conditional Use Permit for the Deer Crest Club, 2300 Deer Valley Drive East, 1) to expand the maximum membership of the club from 195 to 290 members; 2) to allow space in the Phase 2 Building under construction to be used as club facilities. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Deer Crest Club

1. On February 23, 2011, the Planning Commission approved a Conditional Use Permit for an Amenity Club at the St. Regis with a membership cap of 195 Members.
2. The Deer Crest Club operates within the St. Regis Hotel, including the restaurant, bar, spa, ski lockers, fitness center, and pool. A total of 290 memberships are now requested (an increase of 95 memberships over the existing 190 cap). Membership is expected to include owners of units at the St. Regis Resort, homeowners in the Deer Crest residential area, and others from the community.
3. This application is reviewed under Section 15-1-10 (E) of the Land Management Code.
4. The property was posted and notice letters were mailed to property owners within 300' of the property. Legal notice was published in the Park Record.
5. The project has access from Deer Valley Drive and Deer Crest Estates Drive.
6. The property is located within the Residential Development (RD) and Recreation Commercial (RC) MPD zoning district and is subject to the Deer Crest Settlement Agreement and the Deer Crest Hotel CUP.
7. Amenity Clubs require a Conditional Use Permit in the RD and RC zone.
8. No physical changes are proposed to the existing restaurant, bar, spa, fitness center or pool to increase the posted capacity limits. No exterior changes are proposed to the buildings or site.
9. The applicant provided a parking analysis (Exhibits B and E) demonstrating that there is adequate parking available for the requirements of the expanded Club

activities and membership. During the busiest weeks (Christmas) when the hotel was at its maximum occupancy the parking use was at 62% of capacity.

10. The approved Hotel CUP for the St. Regis Resort allows for a total of 146 parking spaces at Roosevelt Gap (105 spaces for overnight use and 41-day use spaces) and 65 valet parking spaces at Snow Park with access to Roosevelt Gap via the funicular. There are 173 parking spaces at the Jordanelle lot serviced by the employee and guest shuttle.

11. The St. Regis Resort utilizes a guest shuttle service. The shuttle service is available for Amenity Club members for transportation to and from the St. Regis.

12. The Amenity Club will be operated and managed in accordance with provisions of the Membership Agreement. Access to the Amenity Club uses shall be restricted during peak occupancy periods based on existing occupancy limits for the hotel amenities. Restrictions on access to the Hotel and parking requirements that are consistent with the conditions of approval of the Hotel CUP will be spelled out in the Membership Agreement.

13. One or two additional employees are anticipated for the expanded Club membership.

14. There are no unmitigated impacts to LMC 15-1-10(E)(1) size and location of the site.

15. There are no unmitigated impacts to LMC 15-1-10(E)(2). It is anticipated that the proposed expansion in membership will generate approximately 24 new trips on the busiest day of the year and that outside of the busiest week the these numbers reduce significantly. Additionally, the Hotel operates a shuttle service that is available to Club members for transportation to and from the St. Regis.

16. There are no unmitigated impacts to 15-1-10(E)(3) as no additional utility capacity requirements are created with the expanded membership.

17. There are no unmitigated impacts to LMC 15-1-10(E)(4) increased membership will not change emergency vehicle access.

18. There are no unmitigated impacts to LMC 15-1-10(E)(5). The applicant provided a parking analysis (Exhibits B and E) demonstrating that there is adequate parking available for the requirements of the expanded Club membership. During the busiest weeks (Christmas) when the hotel was at its maximum occupancy the parking use was at 62% of capacity.

19. There are no unmitigated impacts to MC 15-1-10(E)(6) internal vehicular and pedestrian circulation system.

20. There are no unmitigated impacts to LMC 15-1-10(E)(7), fencing, screening and landscaping as a result of the expanded membership.

21. There are no unmitigated impacts to LMC 15-1-10(E)(8). The expansion in membership will not change the Buildings in any way.

22. There are no unmitigated impacts to LMC 15-1-10(E)(9). There are no changes to usable Open Space.

23. There are no unmitigated impacts to LMC 15-1-10(E)(10), as no additional signs or lighting are proposed with this application.
24. There are no unmitigated impacts to LMC 15-1-10(E)(11) as there are no changes to the physical design of the Buildings.
25. There are no unmitigated impacts to LMC 15-1-10(E)(12), noise, vibration, odors, steam or other mechanical factors that might affect people and Property off-site.
26. There are no unmitigated impacts to LMC 15-1-10(E)(13), control of delivery and service vehicles as a result of expanded membership.
27. There are no unmitigated impacts to LMC 15-1-10(E)(14), ownership and management of the project as a result of expanded membership.
28. There are no unmitigated impacts to LMC 15-1-10(E)(15), Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste, Park City Soils Ordinance, and Steep Slopes as a result of expanded membership.
29. This proposal has been reviewed for consistency with the Goals and Objectives of the Park City General Plan. Lower Deer Valley is a resort neighborhood with a mix of resort-oriented housing and visitor amenities. Deer Valley prides itself on offering an exceptional skier experience and this mentality of providing exceptional quality is shared by the surrounding residential community. Expanding Club membership opportunities is consistent with the goals and objectives of the Park City General Plan for this neighborhood as long as parking and additional vehicle trips are sufficiently mitigated. The applicant has stated that since operating a Club with 195 members they believe they can afford to increase their membership cap without affecting the quality of either Hotel or Club services, including parking. One or two additional employees are anticipated to serve the expanded Club Membership. The previous parking demand Study determined that peak parking demand at the St. Regis was 250 stalls, leaving 154 empty stalls on the busiest day.
30. Submitted Trip Generation and Parking Studies show that the proposed expansion in Club membership and expansion of Club Amenity space in Phase 2 will result in minimal trip generation (24 new trips) and that trip generation is within the capacity of Deer Valley Drive. Additionally, these studies show that the applicant has demonstrated that the Hotel has sufficient excess parking capacity to support the proposed increase in Club membership.
31. The Findings in the Analysis Section are incorporated herein.

Conclusions of Law – Deer Crest Club

1. The Use, as conditioned complies with all requirements of the Land Management Code, Section 15-1-10.
2. The Use, as conditioned is consistent with the Park City General Plan.
3. The effects of any differences in use or scale have been mitigated through careful

planning.

4. The Application complies with all requirements outlined in the applicable sections of the Land Management Code, specifically Sections 15.1.10 review criteria for Conditional Use Permits.

Conditions of Approval – Deer Crest Club

1. A Membership Agreement shall be reviewed and approved by the City, as to form and compliance with the Conditions of Approval, prior to commencing new membership sales for the Amenity Club. Access shall be restricted during peak occupancy periods based on existing occupancy limits for the hotel amenities. The Agreement shall reiterate conditions of approval of the Deer Crest Hotel CUP regarding access to the hotel and parking requirements and restrictions, and shall encourage use of the Hotel shuttle.
2. The applicant is responsible for management of the club and enforcement of the Membership Agreement.
3. Amenity Club membership shall be limited to a maximum of 290 memberships with a limit of not less than 65 memberships required to be held by owners of property located within the Deer Crest gates or owners of condominium units in any phase of the St. Regis Deer Valley.
4. All conditions of approval of the 1995 Deer Crest Settlement Agreement and its amendments continue to apply.
5. All conditions of approval of the Deer Crest Hotel CUP last amended on April 18, 2016, shall continue to apply.
6. Prior to the issuance of a building permit for Phase 3 the applicant shall submit a Parking Management Plan outlining how parking at Snow Park will be managed during construction with respect to the loss of surface stalls and construction related parking and deliveries, to the Planning Department for review and approval.
7. Within one year of receiving the final Certificates of Occupancy for Phase 3, the applicant shall submit to the City Planning Department, for review by the Planning Director, a review of Club operations including the use, membership status, parking and traffic impacts, and a summary of complaints received regarding impacts of the Club on the hotel operations, guests, and owners of adjacent or nearby property.

8.C. Land Management Code (LMC) Amendment – Amending the LMC to Remove the Requirement That Solar Energy Systems Shall be at Least One Foot (1') From the Eave of a Roof by Amending LMC 15-5-5(G)(3)(b).
(Application PL-20-04463.)

Planner Hannah Tyler reported that this was an amendments to clean up the Solar Code. The result came from the task force and also from solar companies who could not find a logical reason for why the solar requirement is to have a 1-foot distance from the edge of the eave to the start of the solar array. The Staff worked with the Building Department to make sure there were no building code requirements or concerns. For example, the ridge of the roof cannot have solar panels because the fire fighters need to be able to ax the roof to let out the smoke. Planner Tyler stated that the Building Department determined that there was no requirement for the 1-foot distance, and in fact, the distance between the eave and a solar array would actually result in snow buildout and create ice dams and other issues. Allowing solar to go to the edge of the eave actually resolves an issue that was unintentionally created by requiring the 1-foot distance.

Planner Tyler noted that this amendment was reviewed by the HPB and the Design Review Team and there were no concerns from a design guideline standpoint of the perception of one additional foot of solar array on a historic house or on a new house.

The Staff recommended that the Planning Commission forward a positive recommendation to the City Council for the proposed amendment, based on the Findings of Fact in the draft ordinance.

Chair Phillips believed this amendment would encourage people to consider solar. Planner Tyler agreed. She believed it was a positive for the direction the community wants to take. The Staff could not identify any negative impacts at this point.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

MOTION: Commissioner Suesser moved to forward a POSITIVE recommendation to the City Council to remove the requirement that solar energy systems are at least 1-foot from the eave of the roof by amending LMC 15-5-5(G)(3)(b). Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission Meeting adjourned at 8:30 p.m.

Approved by Planning Commission: _____

APPROVED 04.22.2020