

**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION
CITY COUNCIL CHAMBERS
December 14, 2016**



AGENDA

MEETING CALLED TO ORDER AT 5:30PM

ROLL CALL

ADOPTION OF MINUTES OF NOVEMBER 30, 2016

PUBLIC COMMUNICATIONS – *Items not scheduled on the regular agenda*

STAFF BOARD COMMUNICATIONS AND DISCLOSURES

CONTINUATIONS

1061/1063 Lowell Avenue (Application #PL-16-03328) - The purpose of this plat is to vacate Lot 1 from the Northstar subdivision, which current holds a duplex and has a deed line running through it. This plat amendment is synonymous with application #PL-16-03221; removing Lot 1 from the Northstar subdivision will possibly allow the following application to subdivide the current lot into 4 lots (becoming its own subdivision) for 4 single family homes.

PL-16-03328 53
Planner
Hawley

Public hearing and possible continuation to January 11, 2017

1061/1063 Lowell Avenue (Application #PL-16-03221) - The purpose of this plat is to subdivide one lot with a current duplex on it, separating it into 4 lots for 4 single family homes. This plat amendment is contingent on the approval of the 1061/1063 Lowell Avenue PL-16-03328 plat amendment, which proposes to vacate Lot 1 from the Northstar Subdivision.

PL-16-03321 54
Planner
Hawley

Public hearing and possible continuation to January 11, 2017

Request for a three lot subdivision plat, known as Village at Empire Pass North Subdivision, located at the intersection of Empire Club Drive and Marsac Avenue, to create platted lots within the approved Village at Empire Pass Master Planned Development for Buildings 3 and 4, and for the Horseshoe Parcel townhouses

PL-16-03293 55
Planner
Whetstone

Public hearing and continuation to January 11, 2017

Request for a one Lot and one Parcel subdivision plat, located in the 9000 Block of Marsac Avenue, to create a platted lot for development of Parcel B2 East of the Montage Master Planned Development Phase II, and to create a non-development parcel for ski area uses located on Twisted Branch Road

PL-16-03338 58
Planner
Whetstone

Public hearing and continuation to January 11, 2017

REGULAR AGENDA – *Discussion, public hearing, and possible action as outlined below*

Treasure Hill Conditional Use Permit, Creole Gulch and Town Lift Mid-station Sites – Sweeney Properties Master Plan - PL-08-00370

PL-08-00370 63
Planner
Astorga

Public hearing and consideration of motion to continue public hearing to a future date

638 Park Avenue- Conditional Use Permit for new construction of a 3,785 sf private

PL-16-03313 95

event facility to be located on the second level of the new addition to the historic Kimball Garage.

*Planner
Grahm*

Public hearing and possible action

1376 Mellow Mountain Road – Appeal of a building permit (BD-16-22329) denial based upon the Planning Directors determination of the proposed addition’s square footage that would exceed the maximum house size identified on the recorded plat of First Amendment to Hearthstone Subdivision.

PL-16-03347 215
*Planner
Hawley*

Quasi-Judicial hearing

250 Main Street and the Parking Lot at top of Main St. - Plat amendment to combine lots of the Park City Survey into 2 lots of record and dedicate unused portions to Park City Municipal Corporation as Right of Way.

PL-16-03217 329
*Planner
Hawley*

Public hearing and possible recommendation to City Council on January 5, 2017

152 Sandridge Road Subdivision - Plat amendment to create a legal lot of record from a metes and bounds parcel.

PL-15-02952 369
*Planner
Grahm*

Public hearing and possible recommendation to City Council on January 5, 2017

Request for a one year extension of ratification of the Development Agreement for IHC Master Planned Development (MPD), memorializing approved amendments to the IHC MPD, located at 900 Round Valley Drive.

PL-15-02999 393
*Planner
Whetstone*

Public hearing and possible action

8680 Empire Club Drive - A Conditional Use Permit for a 1,094 sf. addition to the Talisker Tower Club restaurant and expansion of the basement locker room.

PL-16-03177 407
*Planner
Whetstone*

Public hearing and possible action

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

PL-16-03209 487
*Planner
Whetstone*

Public hearing, discussion, and continuation to February 8, 2017

WORK SESSION – Discussion items only, no action taken

Annual Legal Training on Open Public Meeting Act

*Assistant City
Attorney Samuels
McLean*

ADJOURN

A majority of Planning Commission members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
NOVEMBER 30, 2016

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

Bruce Erickson, Planning Director, Francisco Astorga, Planner; Kirsten Whetstone, Planner; Ashley Scarff, Planner; Anne Laurent, Community Development Director; Luke Cartin; Environmental Sustainability Manager; Rhoda Stauffer, Housing Program Manager; Alfred Knotts, Transportation Manager; Polly Samuels McLean, Assistant City Attorney
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REGULAR MEETING

ROLL CALL

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

ADOPTION OF MINUTES

October 26, 2016

MOTION: Commissioner Joyce moved to APPROVE the minutes of October 26, 2016 as written. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

November 9 2016

Commissioner Joyce referred to page 6 of the Staff report, second paragraph from the bottom, second sentence. He thought the sentence was unclear and he did not recall having said those words. Commissioner Joyce had the same issue with the third sentence. He was unsure how to correct the sentences because he could not recall what he had actually said.

Chair Strachan suggested that they table the minutes to the next meeting and have Mary May re-listen to the tape for the exact wording. Chair Joyce stated that if the second and third sentences were stricken the rest of the paragraph reflected his intent and he was comfortable approving the minutes.

MOTION: Commissioner Phillips moved to APPROVE the minutes of November 9, 2016 as amended. Commissioner Joyce seconded the motion.

VOTE: The motion passed. Commissioner Suesser abstained from the vote since she was absent from the November 9th meeting.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Bruce Erickson reported that the next meeting was scheduled for December 14th. It will be a Treasure Hill meeting held at the Marsac Building.

Director Erickson stated that the Planning Commission would only have one meeting in January on January 11th, and it would also be a Treasure Hill meeting. It was still uncertain whether the January meeting will be held at the Santy Auditorium or the Marsac Building. Director Erickson anticipated holding the Treasure Hill meetings at the Santy Auditorium in March, April and May.

Commissioner Phillips disclosed that he has a small office in the Bonanza Park area. However, it would not affect his decision on the agenda item this evening; and if it ever became necessary, his office could be moved.

WORK SESSION

Presentations regarding Environmental Issues, Transportation and Affordable Housing

Community Development Director, Anne Laurent, introduced Rhoda Stauffer, Luke Cartin, and Alfred Knotts. Since this was a work session, they were anxious to hear feedback from the Planning Commission regarding the three items being presented, and whether or not they were heading in the right direction.

Ms. Laurent stated that these items were the three critical goals from the City Council, and they are mentioned frequently in the General Plan. There have been discussions for several years about ways to improve the LMC to better support these critical goals.

Affordable Housing

Ms. Laurent stated that the first objective was to talk about the identified problem statement, which is the increasing rate of affordable housing units compared to what is

available and the market price. She remarked that the gap between the price of what is affordable at a certain AMI versus the market is widening at a very fast rate. She noted that currently there are just under 500 existing deed restricted affordable units in Park City.

The City Council has set a goal of 800 new units in the next ten years. Ms. Laurent stated that availability of land and shovel ready projects are the biggest challenges, as well as the complexity and competing interests of doing development in general.

Ms. Laurent reported that they had worked with EPS and the Blue Ribbon Housing Commission to make recommendations. Progress has been made, but further actions are needed.

Rhoda Stauffer, Housing Program Manager, stated that resolution amendments would be going to the City Council in the next 30 to 60 days. She noted that the City Council recently had a long discussion about fee waivers and agreed that any City sponsored affordable housing project has the ability to get full fee waivers from both impact and permitting fees. In addition, anyone building affordable housing has the ability to come to the City Council for partial or full fee waivers for development of affordable housing. Ms. Stauffer clarified that the waiver did not include housing obligations that come from an MPD or Annexation.

Ms. Stauffer reported on additional changes in the resolution. One is the way to calculate in-lieu fees, which would not quite double the in-lieu fee per unit. Another is that the employee generation multipliers would slightly change. Income targets would also change to better reflect what they have learned about the needs in the community.

Commissioner Joyce understood from a previous presentation that the City had set a price point for the fee in-lieu that was now outdated from a cost-of-living standpoint. He asked if an annual adjustment was being added to the changes to keep the fee in-lieu current.

Ms. Stauffer clarified that it was not actually out of date. The change was proposed after they re-examined how it was calculated. The prior method was a calculation of the difference between the affordable number to build a unit and the actual market price. They are now talking about charging closer to the actual construction cost of a unit.

Ms. Laurent explained that they were tying it to the average cost coming in as a valuation on building permits. As that number changes it would automatically change the in-lieu fee without having to amend the resolution.

Ms. Laurent thought it was important for everyone to understand the meaning of affordability. It is defined for families spending no more than 30% of their income on housing. That is the basis for setting AMI's

Ms. Stauffer stated that AMI stands for Area Median Income, and it is a factor that is calculated every year by HUD, the Department of Housing and Urban Development, to talk about affordability in communities around the United States.

Ms. Stauffer reported that the housing needs assessment was updated, which stipulates who in the community cannot find housing and what the households look like. There was a deficiency of approximately 400 rental units. Ms. Stauffer stated that rental housing has not been developed in the community for nearly 20 years, and it is clear that 400 units are needed to serve 40% to 50% of Area Medium Income. She pointed out that there are no for sale units in the community that are affordable to anyone earning 100% of AMI.

Director Erickson clarified that the affordable housing numbers Ms. Stauffer was citing only pertained to housing inside the City limits. It did not include surrounding areas.

Ms. Stauffer remarked that Park City is the job center for Summit County, and 8,000 people commute into the community from outside Summit County. They are focused on the AMI of those in the community to keep them from having to commute, rather than serve the people who already live in the Summit County and commute into the City. Ms. Stauffer stated that half of the commuters are below 60% of the AMI, which is below \$50,000 per year. The other half are above that percentage. Ms. Laurent stated that this information was important because it give them an idea of where the focus should be in terms of rental versus ownership. People below 60% are more likely to rent and those above 60% eventually want to own.

Ms. Laurent stated that the City was exploring the idea of potentially replacing the affordable Housing Master Plan Development Section of the LMC with something called a Housing Overlay Zone, where there are pre-determined “gives and gets” rather than a negotiated “give and get”. It would only apply to affordable housing. Ms. Laurent explained that when developers present bright ideas to develop affordable housing, they want some predictability on what they can develop with and without affordable housing. Currently, they are told that it depends on a number of things and they must go through a very long process to get answers. Ms. Laurent pointed out that it was a preliminary idea and they needed to look at how it would work. However, they would like to try it because it provides a framework and tailors density and the design criteria based on location and what people are willing to tolerate in their community. For developers, it would provide a known quantity in penciling a development project.

Ms. Laurent stated that the City was looking at purchasing land in the Bonanza Park area and developing affordable housing on that land is a priority. However, in recent conversation with the community about development in the Bonanza Park Area, many

questions were raised about density. There have been very good, productive community conversations. Ms. Laurent noted that there are still very polarized viewpoints on density and whether it is worth it. Another issue raised in those conversations is which is more important; housing or compatibility and not going over three stories or changing the look and feel of walking down the streetscape. She believed that the end result might not pencil for affordable, but since the City has money available to subsidize affordable housing, it allows them to better quantify and work with developers on what that subsidy might be. Additionally, the City Council would like to develop affordable housing on some City-owned properties. However, in order to that they would still need to provide a framework of what they are looking for and this might provide the opportunity to begin that framework.

Director Erickson noted that this suggestion has been benchmarked against other communities, so there are models that can be tested to see what would or would not work. Ms. Laurent emphasized that this was not the City's brain child and that it was already occurring in other communities and municipalities that were struggling with affordable housing.

Commissioner Phillips asked if they had calculated figures on how much additional housing the Housing Overlay Zone would help facilitate. He wanted to know if the Overlay Zone would apply to the same people that would be affected under the current Resolution or whether it was broadened. He recalled discussions about disbursing the costs through residential, and he was curious to know if that was ruled out or whether it was still being explored.

Ms. Laurent replied that the Housing Overlay Zone was different than the current Resolution. It would be creating a new zone that would overlay on to existing zones, and define how affordable housing would be viewed differently for that zone than any other market rate development. It would be an Overlay Zone used as an incentive for private development to do affordable housing. In some communities it does not require City funding, but given the market value of housing in Park City it still might be necessary to subsidize. However, it would help give a better idea of a reasonable subsidy level.

Ms. Laurent stated that the Resolution talks about housing obligations and it is sometimes used in development agreements. It responds to the inclusionary zoning regulations already in the LMC, which is why the two would be separate. Ms. Stauffer clarified that the Housing Overlay Zone would not replace the Housing Resolution.

Director Erickson remarked that the advantage of the Housing Overlay Zone is that it can be tailored to each of the 17 Zoning Districts, rather than a blanket like the

Sensitive Lands Overlay. Each District would receive a different set of tools to do property infill for this type of housing. It would enable the Planning Commission to target infill and neighborhood compatibility.

Commissioner Phillips asked if this would be substantial enough to spur new affordable housing. One of the problems with the MPD is that the housing required to be built is not a significant amount. In their joint meeting with the City Council, one of the issues was whether they needed to look at broadening those who have to pay into affordable housing. He asked if other changes were also being considered.

Ms. Laurent replied that this addressed the same issue, but in a different way. Rather than re-writing the affordable housing portion of the MPD, it would just change the structure. It also provides some flexibility to look at what they want to do in different parts of the City. Director Erickson stated that whatever solution they come up with, it would be benchmarked against the 800-unit goal set by the City Council. If they use this process the strategy would be to look at a plan for each zone, tailor it to the 800 units, and look at the consequences.

Ms. Laurent stated that whether or not it works would depend on the framework they give it. It is intended to make a big difference if they are willing to go big. She did not believe it would cure a market failure without some type of subsidy for a private development to do affordable housing.

Commissioner Joyce recalled saying in a previous discussion that the only people who are forced to contribute to affordable housing are those bringing forward an MPD. He pointed out that there are very few MPDs compared to the enormous number of structures being torn down, built, and rebuilt. He stated that they specifically talked about whether or not they should be looking at things outside of the MPD process as having to contribute to the affordable housing piece. Commissioner Joyce thought that related more to the Resolution rather than the Overlay if someone was building a single house. Ms. Laurent replied that he was correct. It was more of a Resolution and more about expanding the inclusionary zoning obligations.

Ms. Laurent stated that having an Overlay Zone in place and knowing where housing could go would be the first start to expanding the inclusionary obligations. It was also discussed as potentially expanding it to residential. They were not against going down that route, but they still needed to work out the details and bring the pieces together.

Director Erickson stated that the most negotiating power the Planning Commission has is an annexation. The next level is an MPD. The next level being considered would be the Planning Commission review authority of a mitigation strategy inside a Conditional

Use Permit. He believed there was the potential, but it was unclear whether or not the City would move forward on that level. Ms. Laurent pointed out that there were also functional complications in terms of existing development agreements and existing subdivisions. They did not see a lot of opportunity or impact by going that route. It was still being explored.

Commissioner Phillips asked if they anticipated additional joint meetings between the City Council and the Planning Commission. Ms. Laurent believed there would be future opportunities for joint discussions. She noted that a joint meeting was scheduled with Summit County on December 6th and affordable housing was one of the topics. They would focus on any opportunities to partner regionally.

Chair Strachan asked about the timing for bringing forth proposed LMC changes. Director Erickson replied that the Staff was given direction to bring something to the Planning Commission in the first quarter of 2017. Ms. Laurent suggested having a strategy meeting on how to do outreach and how to engage the public in a more informal setting.

Commissioner Thimm asked if they had identified any communities that have successfully implemented similar programs. Ms. Laurent replied that most of the communities are larger, more city-like environments. The challenge is that Park City is not urban but they have urban problems. How to adapt that was treading new road.

Chair Strachan asked if any communities the size of Park City had ruled it out as a bad idea. He was told that there were none that they knew of. Ms. Laurent respected the comment. They would not be offended if the Planning Commission thought it was a bad idea. She clarified that they were just looking for the tools that could be explored to address what they hear from the community.

Chair Strachan stated that when they do the outreach and get to the point of enacting LMC amendment and taking public comment, he was concerned that the first question would be whether or not they looked anywhere else to see if this works. He wanted to be able to answer yes and give specifics. Ms. Stauffer replied that Park City is part of a national network of entities that have been doing inclusionary zoning for years. It is a peer sharing network where they share information with each other about Best Practices and other things. Ms. Stauffer stated that they are constantly checking that network.

Commissioner Thimm noted that the information provided in the packet mentions a couple of thresholds in terms of percentage of AMI. It talks about the 40% to 50% threshold for the deficit in rental housing of 400. It also talks about the 8,000

commuters at 60% AMI. He asked if it would include a benchmark and process for determining what the target needs to be in terms of implementing the affordable housing initiative.

Ms. Laurent stated that they have talked about putting more definition to the critical goals and try to better define what the mix would be between rental and for sale. Ms. Stauffer stated that the assessment shows specifically what AMIs are in the most need. For 80% and above AMI there is a big need for rental housing in that category, as well as the 50% and below. It appears that the in-between is served fairly well. Ms. Laurent clarified that currently there is a very severe waiting list for rental with Mountainlands Community Housing Trust in the 40% to 50% AMI area; and their recommendation is for the City to focus on the rental.

Commissioner Joyce commented on the commitment that was made for the Park City Heights neighborhood. The hospital has come back with a second update and he believed the second phase of the hospital would be completed before the affordable housing is in. Commissioner Joyce stated that it is frustrating for the Planning Commission to put a requirement forward for affordable housing only to see it languish. Ms. Stauffer reported that they were on the cusp of releasing 14 houses for sale, and those were expected to close in the next 30 to 60 days. She believed the first round would lay the groundwork for having it go smoother in the future. I talking with the developer on what prices could be charged, they honed in on trying to keep the houses affordable. Ms. Laurent explained that based on how the development agreement was written, there are certain thresholds of when permits and certificates of occupancy can be issued. The City has the authority to hold back a certain percentage of permits and CO's if the affordable housing is not done. She pointed out that there were criteria for affordable housing but no deadlines for completing a specific number of units. The lesson learned and the recommendation from the Blue Ribbon Housing Commission is that the affordable housing portion must be completed first in a development.

Transportation

Alfred Knotts, Transportation Manager, walked through the transportation strategies that have been presented to the community over the past few months. In addition, two sales tax initiatives were done jointly with the County. In addition to presenting the strategies to the public, they have reinforced that the strategies are consistent with the General Plan. Mr. Knotts stated that he came from the Tahoe Basin, which has the most stringent regulations in the Country. He is a firm believer in the roles that regulation and policy play. Projects and services cannot be accomplished without comprehensive planning at a project by project level.

Mr. Knotts stated that Park City is dealing with different growths, as well as growth outside of the City limits which has indirect and direct effects on Park City. They have been working with the County on how to mitigate those on a project and regional level, and it would be presented to the community itself.

Mr. Knotts presented the comprehensive approach. What they laid out to the community and reiterated with the Councils was a combination of projects, programs and services that improve the mobility and how it all fits together. Mr. Knotts pointed out that the fact that they will not build their way out of congestion was consistent with the General Plan. They would also provide active transportation and transportation demand management strategies. The last piece is to focus on the transit system. It is a very successful system and the intent is to build off of that system and provide the needed priority to the transit system. Mr. Knotts noted that currently the transit system operates in the same capacity as the single occupancy vehicle. He would provide the priority that it needs to outperform the single occupancy vehicle.

Mr. Knotts commented on road improvements and capital improvements. The primary focus will be on the main corridors and remote parking lots. The way to provide that priority to transit on the corridors is to provide dedicated transit lanes on SR224 and 248. The remote parking locations would be outside of the corridors and strategically located within and adjacent to the corridors.

Mr. Knotts had met with UDOT and the City was taking the lead on the SR248 project. It is a model he used in Tahoe both in California and Nevada where they did the projects on the State highway system with the State Highway Department Authority by passing the project management authority on to the local jurisdiction. It allows the project to be developed at a scale and context that fits the community.

Mr. Knotts noted that the County was also working on SR224. The City and the County have been working with the Blue Ribbon Committee on remote parking, and a few remote parking locations have been identified outside of the corridors. They will be looking at how to tie those into the transit system.

Mr. Knotts reported that the scope of the project for SR248 is dedicated transit lanes. Studies have been done over the last several years, and the last one completed in 2009 identified a preferred alternative. They would be moving forward with that preferred alternative, which are dedicated transit lanes. The Transportation Department will be doing public outreach and it will come back to the Planning Commission for feedback and input.

Mr. Knotts stated that as the school goes through its master planning process, they will be looking to address the access points. Currently, there are seven curb cuts and would like to address safety and other conflicts that exist at that corridor. He pointed out that there is one tunnel through that corridor, but an at-grade crossing still exists which does not resolve the entire conflict. Mr. Knotts noted that Richardson Flat is an asset they do not use. It is not very accessible and that would be part of the project. Other projects include the intersection improvements at Bonanza and 248.

Mr. Knotts remarked that the strategy for SR224 is very similar. They were looking to give transit priority through that corridor and be able to expedite service from the new Kimball Junction Transit Center that is being completed.

Regarding remote parking and where the intercept lots could exist, the Blue Ribbon Committee had talked about being able to identify the locations that complement all the markets they were trying to capture at those key points. They identified a place at the Ecker View area, and were in discussions with UDOT to be able to repurpose that. The view area is currently a layover truck stop and sleeping area. It is very accessible due to its proximity adjacent to I-80. It would allow them to capture those cars before they enter the Kimball Junction area.

Mr. Knotts stated Jeremy Ranch was another area being considered as a remote parking location. Another location was the Richardson Flat area.

Mr. Knotts stated that another strategy and something they were looking at incorporating into the LMC is Transportation Demand Management Program. It would be applied at a project by project level, and could be considered as conditions of approval. Certain levels of projects that generate a certain threshold of trips or has a certain threshold of employees would be able to develop a transportation demand management plan specific to that business or use. He anticipated coming back to the Planning Commission with proposed changes to the LMC in the first quarter of 2017.

Mr. Knotts stated that the General Plan is very explicit about what should occur when projects come forward. However, there is a big gap between how the General Plan is implemented and the LMC, and he is very eager to clean that up.

Mr. Knotts commented on minimum versus maximum versus shared parking standards. They have haphazardly applied maximum parking standards or parking reductions. The General Plan says that when those have been applied they should go back and conduct research on how it was applied. Certain projects have been approved but they have not yet done that research to evaluate whether it has been effective; and if not, what strategies or adaptive management strategies could be put in place to make them

effective. Mr. Knotts stated that there were also opportunities for shared parking and they would be looking at certain strategies. They were also working with the County on developing an overall regional transportation plan. Currently, there is a Traffic and Transportation Master Plan that was done in 2011 that needs to be updated.

Mr. Knotts stating that in the next few months he would be bringing forward LMC changes related to parking, specifically Section 9-7; and the parking ratio requirements in Section 15-3, which applies to the minimum versus the maximum versus shared parking. Section 9-7 is paid parking. As part of the parking management strategies for Old Town and the greater Park City areas, paid parking is a concept and strategy that will also be coming forward. Mr. Knotts stated that a Transportation Demand Management Ordinance or program could start off as voluntarily implemented by major existing employers, but as projects come forward, transportation demand management plans would be required at a certain level or threshold. It could be a standard condition of approval and incorporate certain mitigation measures when there are parking requirements. When parking reductions are considered the question is whether it should be applied arbitrarily or whether a straight 10% reduction should be applied. He suggested that they look at the 10% reduction and apply certain mitigation measures. A key theme would be to monitor the conditions of approval to see how they were working so they would not perpetuate past mistakes.

Mr. Knotts stated that he has spoken with Director Erickson and Ms. Laurent about requiring a traffic impact analysis and what would be the threshold to trigger the requirement. Mr. Knotts commented on other standards being applied that were outdated. One is the standard for level of service. When the level of service fails, the engineering solution is to build more capacity for the road. However, that is contrary to the General Plan which says they should not build more roads. Mr. Knotts stated that they should be looking at how to evaluate these projects on a vehicles miles traveled basis. He believed they would be working on that on a policy level.

Mr. Knotts commented on the conditions of approval, and agreed with the comment that the requirements languish. There is no tangible or direct mitigation that has a responsibility associated with it, a schedule, or when it should be completed.

Commissioner Joyce remarked that a major question when they were trying to work on the BoPa Plan was about improving the traffic flow. He did not anticipate a Bonanza Park Plan in the near future, but he suggested that they look at traffic flow through Bonanza Park as part of the traffic analysis. Mr. Knotts stated that they have developed a Bonanza Park Transportation and Parking Plan. It is in a final draft form but it has not been presented to the Planning Commission or adopted by the City Council. It supports the neighborhood plan in the General Plan. Mr. Knotts believed

the neighborhood section of the General Plan provides enough guidance about providing connectivity. The explained that they have been looking at the purchase of the Yard parcel, as well as road layouts and how to extend potentially the Munchkin Road section and Homestake.

Director Erickson noted that Prospector Avenue was also scheduled for reconstruction. He reported that working together, Planning, Transportation and Engineering they have gone to a complete streets analysis. They were enhancing bus turnouts, bike lanes, and landscaping. They were in conformance with the General Plan on that model as well. Director Erickson stated that considerable work was being done on the larger General Plan issues in that area.

Commissioner Joyce believed this was a step different than Prospector. The roads through Bonanza are fundamentally broken. Currently, everything in Bonanza Park dead-ends and they need to look at interconnecting some of the things that would either be part of an MPD, allocating land that is not currently road to become roads, or the City buying roads or building roads.

Director Erickson suggested that they have that discussion when they do their General Plan review of the Bonanza Park item on the agenda this evening. Mr. Knotts clarified that they have been using the General Plan as guidance for the connectivity and providing through arterials for that area. They also looked at the Corridor Preservation and Corridor Management Plan per an agreement with UDOT on access points and ingress/egress on SR248 as part of the Bonanza Park project. They were looking at a similar strategy with the School District.

Chair Strachan stated that as they look at the complete streets approach, sharrows lanes for bikes work well in the summer, but not as much in the winter because the roads are not plowed and the bikes cannot navigate through the slush on the side of the road. He suggested that they look at ways to make it more passable for bikes using sharrows lanes, and ways to make the City more bikable. Chair Strachan pointed out that the dedicated lanes work great because they are plowed early in the morning. He would support incorporating those practices into the budget to make the sharrows lanes as good as the dedicated lanes. Mr. Knotts stated that a cycle track also works well. They are separated by some type of a curb or median, and they would be plowed similar to the dedicated lanes. He thought there might be an opportunity to do that on Prospector; and if not, it would be something to incorporate into the design standards as a complete street. Chair Strachan did not believe Prospector needed it as much because of the Rail Trail. It was more important to keep the sharrows lanes cleared.

Luke Cartin stated that he has been in this position for three months but he is a seasoned veteran. He introduced Celia Peterson as the newest member of the sustainability team. Mr. Cartin noted that he served as a Planning Commissioner for eight years in another city and he respects what the Planning Commission does.

Mr. Cartin stated that the guiding documents for environmental sustainability are broken into three categories. The General Plan - Chapter 5 talks about everything from open space to carbon and sustainability. There were also critical priorities and resolutions that have been passed by the City Council, such as net zero and 100% renewable, as well as building standards and other pieces. Mr. Cartin remarked that his role is to make sure the City hits the goals of net zero carbon and 100% renewable electricity by 2022 for City operations and 2032 community wide. Mr. Cartin stated that net zero carbon takes into account all types of energy. These two goals are the main driver for his team.

Mr. Cartin noted that there are national resources to draw on and Park City is recognized as 100% committed by I Am Pro Snow, which is part of the climate reality project by Al Gore's group. The Sierra Club has lent their support. Unity Concerned Scientists have also provided technical pieces. There are a lot of national resources focused to help Park City achieve these goals.

Mr. Cartin noted that 100% renewable electricity is part of the net zero carbon goal. He presented a slide showing where Park City fits with some of their peer cities listed on page 131 of the Staff report. Those with a yellow dot were 80% to a carbon reduction goal and those identified with a blue mark had a net zero or a 100% goal. Park City is a leader in that nationally. Mr. Cartin stated Park City's goals are achievable and many of the other cities who set goals further out were bumping up their goals to meet Park City's goals. He remarked that the state of utilities is changing rapidly and the Country is in the middle of a transformation. The change is also occurring internationally.

Mr. Cartin reviewed a list of current steps that were being taken. They were currently under electricity negotiations with Rocky Mountain Power to achieve the 100% renewable goal. Currently, with Rocky Mountain Power it is about 60% coal fired, and that is a drastic change from what they currently do for business.

Mr. Cartin stated that they were also looking at quantifying the open space carbon sinks. They have over 8,000 acres preserved and the intent it to help quantify that. It would not change how the open space is managed, but it would add additional value. They were also looking at different ways to leverage the Land Management Code in areas that overlap the critical priorities of affordable housing and transportation. They were looking at increasing energy efficiency and renewable energy, and they were also

going after zero waste. On the zero waste side they were actually focusing on special events first because they have a large impact but they have also shown a great amount of success. The Park City Market has an 86% diversion rate, which is great when you consider the number of people who attend the event.

Mr. Cartin stated that the energy code is set at the State level. They are not able to change the values, insulation factors or any other pieces because it is set by the State Legislature. They can get around it somewhat by being more creative in the LMC. Another plan is to reach out to the community and get input from architects and builders to figure out how they can work it in and make it more authentic.

Mr. Cartin presented a graph showing the electricity use of residential within the City limits shown in red, and businesses within the City shown in blue. He pointed out that in January, February and March the residences used more electricity than all of the businesses combined. It is nearly a 50/50 split when you look at two ski areas, all the hotels, and the restaurants within the City limits. Mr. Cartin believed it was an interesting challenge and one they did not have answers for yet. They would be reaching out to the community to help solve the problem. Mr. Cartin stated that in looking at the 2022 goal and the 2032 goal, City operations are over 50% fed with renewable electricity currently. Electric buses are coming on line, and they were about to undertake an energy efficiency audit on multiple City facilities. They were moving ahead with the Rocky Mountain Power negotiations. Mr. Cartin remarked that with the potential changes in rooftop solar in Utah, he asked the City Council to send a letter to the Public Service Commission about the way the temporary tariff was written. He would also be in front of the City Council on December 8th and December 15th to follow up on the City's stances on what to do on the net metering changes proposal that will be decided sometime this summer. Mr. Cartin stated that they were looking at all options to keep that on the table as well.

Mr. Cartin reiterated that his two main goals are to meet the carbon and energy goals by 2032 for the community. He would be coming back to the Planning Commission with potential LMC changes, and to hear their comments on everything from open space to overall energy uses as they see what tools are available in the toolbox to tackle the issues.

Director Erickson remarked that at a team level they were looking at issues such as heated driveways, outdoor fireplaces, roof heating and other items that are not necessary but consume a lot of energy. Their last meeting produced 30 potential items inside the LMC that are within the purview of the Planning Commission.

Chair Strachan believed they would need good data. In looking at the graph of residential versus business use, it is easy to speculate that the residential use is higher in January and February because people are heating their driveways and turning on Christmas lights. However, it might not be the real source of the energy use. Director Erickson remarked that part of the use is driven by occupancy. It is also driven by business use. If the hotels are empty, the energy consumption drops.

Chair Strachan suggested that they get the data to drill down on where the energy consumption was really coming from and the cause. He asked if there was a way to get data on the behavioral patterns of the residential users. Mr. Cartin replied that they already have good data on a national level, Utah level and a mountain resort level. They are able to look at comparable cities and towns in the ski industry to see what they have gone after and understand where the load is. The occupancy of second homes is a big driver, but this community has shown great ways to rally around it, with the Summit Community Power Works going after the Georgetown energy prize. They took something that did not exist a few years ago, created a non-profit, and now they are one of the national leaders in energy reduction.

On the residential side, Mr. Cartin stated that the amount of LED's installed across both the east side and this side of the County has significantly reduced the overall residential electrical load. There are big wins already. However, because they are not able to set energy code, they can look at LMC changes to address the larger energy uses. Another approach is to incentivize Old Town to seal up the buildings better. Mr. Cartin remarked on the need to be creative to also make sure they take care of the existing buildings and try to incentivize the new buildings coming out. He would be coming forward with proposed changes to how the City builds facilities. The LMC will be a major piece in how to accomplish these goals.

Chair Strachan was interested in seeing the data analysis, and he requested a presentation on what they find and the behavioral patterns.

Commissioner Joyce asked if there was any hope of approaching the State to explain what Park City is trying to do and the standards they would like to include that are not part of the Utah Energy Standards. Mr. Cartin reported that several things are going on at the State Level. The Legislature is the slowest to act because of their scale and scope. He explained that the Utah energy landscape is currently undergoing drastic changes. Approximately 780 megawatts of solar will be coming on line next year in Utah. Pacific Corp., who owns Rocky Mountain Power, is shutting down 3,000 megawatts of coal. Half of their coal fleet will be off line by 2034. Mr. Cartin stated that they were looking at the best way to package their plan and send it to the State because it saves the residents of the State and the businesses money long term. He

noted that they were also working with Rocky Mountain Power to help push out some of their incentive programs. Mr. Cartin stated that because there is so much change going on this the State, both politically and market forces, that something is going to give and he wants to make sure Park City is helping to push it in the right direction.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

Due to a conflict of interest, Chair Strachan disclosed that he would be recusing himself from the Deer Valley MPD application for 7520-7570 Royal Street East.

- 1. 7520-7570 Royal Street East- Deer Valley MPD 12th Amendment to combine MPD Lots F, G, and H of the Silver Lake Community, into one MPD Lot, Lot I. No changes to the approved density assigned to these MPD Lots are proposed. (Application PL-16-03155)**

Chair Strachan recused himself and left the room. Vice-Chair Joyce assumed the Chair.

Planner Kirsten Whetstone reviewed the request to amend the Deer Valley Master Plan to combine Silver Lake Parcels F, G and H into one Silver Lake Parcel I; as well as to transfer 843 square feet from Lot D, the existing Goldener Hirsch, over to Lot I. The amendment would reduce the unit equivalents for Lot D from 6 to 5.5785. It would increase the UEs that are allowed and allocated by the MPD on Lot I from 34 to 34.4215.

Planner Whetstone reported that the Planning Commission had reviewed this application several times. At the last meeting on November 9th there was an issue regarding the support commercial. At that time the applicant was requesting to calculate all of the support commercial for the project, and then transfer some of it to Lot D to take care of the difference between the 2,062 square feet that the Deer Valley MPD calls out as Deer Valley Master Plan Support Commercial. In addition, there was 3,993 square feet of commercial platted at the Goldener Hirsch.

Planner Whetstone noted that at the last meeting the Planning Commission requested additional information for clarification and Continued the item to this meeting. Planner Whetstone summarized the additional information she had included in the Staff report. She explained that the total building floor area at the time it was built was 24,693 square feet, minus parking and support commercial; and 5% support commercial, 5% meeting space would be 2469.3 square feet. Taking the total platted commercial of 3993 square feet and subtracting the 2,062 square feet allocation, the difference is 1,931 square feet. Planner Whetstone stated that based on the total square footage of the building, they were allowed support commercial of 2,469. The 1,931 square feet is a lesser amount, and

therefore, at some point it was correctly calculated but it was never reflected in the Deer Valley MPD. Planner Whetstone had researched previous Minutes and it was clear that they were counting the gift shop and the front desk, which is considered support commercial or residential accessory.

The Staff determined that the support commercial was correctly calculated. Planner Whetstone clarified that the applicant was no longer asking to transfer any support commercial. The new project was not asking for any support commercial and the existing Goldener Hirsch was not requesting any changes.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the 12th Amendment to the Deer Valley MPD with the findings of fact, conclusions of law and conditions of approval as stated in the Staff report.

Steve Issowits, representing the applicant, thought clarification was accurate. If the CUP and the plat amendments are approved, he would like the MPD to reflect all that.

Vice-Chair Joyce opened the public hearing.

There were no comments.

Vice-Chair Joyce closed the public hearing.

Commissioner Thimm was satisfied with the clarification provided.

Commissioner Suesser did not think Conditions of Approval #1 fully captured the mine hazard language in Item (L) on page 142 of the Staff report. She suggested that the condition should be revised to capture that language. Commissioner Suesser read from Condition of Approval #2 on page 148 of the Staff report, "If a single building is proposed..." She asked if one building was proposed on Lot I or whether it would be two.

Planner Whetstone explained that it was all connected with one parking garage. If they combined all the lots they were concerned about having one large building; and if that occurs, it needs to be fully articulated into sections.

Chris Conabee, representing the applicant, stated that it was a fail-safe mechanism. They were asking the Planning to approve an entire project, and under the auspice of having the MPD changed they came back with a building that looked entirely different. This is a mechanism to make sure that the building is built to represent three separate buildings. Should the project change hands or be sold before the building is built, this was a way to provide the City with a fallback should the building change.

Commissioner Suesser believed that the condition as drafted appeared to allow a single building on that one lot. Planner Whetstone replied that a single building is allowed but the design would have to be articulated to break it up.

Director Erickson addressed Commissioner Suesser's mine waste question. He clarified that the language on page 142 reads that there are no known mine hazards but once they start digging they might find some. Condition #1 is written such that if they do find mine hazards they would be required to submit a plan to remediate it.

MOTION: Commissioner Phillips moved to APPROVE the 12th Amended Deer Valley Master Planned Development based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as stated in the Staff report. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Deer Valley MPD

1. The Deer Valley Master Planned Development was last amended by the Planning Commission on March 23, 2011, as the 11th Amended and Restated Large Scale Master Planned Development for Deer Valley (aka Deer Valley MPD).
2. On April 15, 2016, the City received an application requesting an amendment to the 11th Amended and Restated Large Scale Master Planned Development Permit for Deer Valley (aka Deer Valley MPD). The application was considered complete on July 18, 2016, upon final review of the utility issues associated with the MPD Lots D, F, G, and H addressed as 7570, 7520, 7530, and 7540 Royal Street East respectively.
3. Deer Valley MPD Silver Lake Community parcels known as Silver Lake Village Lots D, F, G and H are also lots of record platted with the Silver Lake Village No. 1 Subdivision recorded June 21, 1989 and the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision recorded November 8, 2011.
4. This request, being the 12th amendment to the Deer Valley MPD, is being reviewed in conjunction with a Conditional Use Permit and an amended Silver Lake Village subdivision plat for the Goldenhirsh Inn and Residences expansion onto the subject MPD Lots.

5. These MPD Lots are located within the Silver Lake Community of the Deer Valley Neighborhood.

6. The applicant requests a 12th amendment to the Deer Valley MPD to combine the Deer Valley MPD Silver Lake Village vacant Lots F, G, and H into one Lot I and to transfer 843 square feet of residential density (0.4215 unit equivalents (UE)) from Silver Lake Village Lot D (existing Goldener Hirsh Inn) to the new Deer Valley MPD Silver Lake Village Lot I, to accommodate access and circulation between the Goldener Hirsch Inn and the future Goldener Hirsch Residences proposed Parcel I.

7. Exhibits 1, 2 and 3 to the Deer Valley MPD show in table form the residential and commercial density allocated for the various Deer Valley parcels, as well as other MPD project components.

8. The requested amendments pertain only to the Silver Lake Community- Silver Lake Village Lots D, F, G, and H shown in Exhibit 1 to the Deer Valley MPD document. There are also administrative changes to page 1 and to Exhibits 2 and 3 to correct titles and dates to reflect the "Twelfth Amended and Restated Large Scale Master Planned Development Permit". There is a note added to Exhibit 2 to clarify commercial uses for Lot D.

9. The requested amendment pertains only to the Silver Lake Community parcels (Lots D, F, G, and H). There are currently a total of 40 UEs of density allocated to these four parcels and the total density allocated to these parcels will not increase or decrease as a result of these amendments.

10. Goldener Hirsh Inn is in compliance with the allowed 6 UE of permitted density, based on a review of the approved building permit plans.

11. The transfer of 0.412 UE density from Lot D to proposed Lot I is within the Silver Lake Community and does not transfer density from lower Deer Valley to upper Deer Valley.

12. Common underground parking, a single access drive, consolidated utilities and emergency egress and fire protection, as well as interior pedestrian connections to the common plaza areas at Silver Lake Village, are beneficial site plan attributes made possible with this proposed MPD amendment.

13. Exhibit 2 of the MPD document allocates 2,062 sf of commercial space for the

Goldener Hirsch starting with the 2001 Eighth Amended MPD.

14. The Goldener Hirsch condominium plats indicate that there are 3,493 sf of commercial condominium units (restaurant, bar, lobby, and front desk area) platted and existing within the building. This support commercial includes 2,062 sf of DV MPD assigned commercial and 1,431 sf of support commercial approved with the 1988 Golden Deer (MPD) approval. An additional 500 sf of support meeting space was also approved.

15. At the time of the August 10, 1988 MPD approval, support commercial/support meeting space was based on the total floor area of the building minus the parking garage and support commercial (24,693 sf). The minutes of the 1988 Golden Deer MPD approval indicate that 3,500 sf of commercial uses were approved.

16. The total existing support commercial and support meeting space is 3,993 sf (3,493 of platted commercial floor area plus the 500 sf of common area meeting space on the second floor).

17. Deer Valley MPD Support Commercial uses allocated for Lot D (Table 2) will not change from the current 2,062 square feet. Any support commercial square footage that exists on Lot D in excess of 2,062 square feet results from the support commercial approved with the Golden Deer MPD in 1988 and the Golden Deer Condominium plats.

18. No changes are proposed to any of the existing support commercial areas within the existing building. The support commercial areas were approved in 1988 and were correctly calculated at the time of the Golden Deer MPD approval.

19. No transfer of support commercial uses from Lot I to Lot D is required or proposed and no commercial uses are proposed on Lot I.

20. A footnote will be added to Table 2 for Silver Lake Village Lot D stating that: "Commercial uses on Silver Lake Village Lot D includes 2,062 sf as allocated from this Amended and Restated Large Scale MPD, plus support commercial uses."

Conclusions of Law – Deer Valley MPD

1. The 12th Amended Deer Valley MPD document and Exhibits comply

with previous approvals and actions.

2. The 12th Amended Deer Valley MPD complies with all requirements of the Land Management Code regarding Master Planned Developments in Chapter 6.
3. The MPD, as amended, is consistent with the Park City General Plan. Development of resort residential properties with underground parking, located at the base of the Deer Valley Resort is consistent with the purposes, goals and objectives of the Upper Deer Valley Resort Neighborhood.
4. The MPD, as amended, does not impact the provision of the highest value of open space, as determined by the Planning Commission. There are no changes to the amount of open space provided by the Deer Valley MPD.
5. The MPD, as amended, strengthens and enhances the resort character of Park City.
6. The MPD, as amended, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible. There are no changes to existing natural features and no existing significant vegetation on the subject development parcels.
7. The MPD, as amended, is Compatible in use, scale and mass with adjacent Properties, and promotes neighborhood Compatibility. There are no changes to allowed total density, exterior building setbacks, or building height. Surrounding buildings are of similar use, scale and mass.
8. The MPD provides amenities to the community and there is no net loss of community amenities with the proposed amendment.
9. The MPD, as amended, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed and no additional housing is required as the density is not increased.
10. The MPD, as amended, meets the provisions of the Sensitive Lands provisions of the Land Management Code. The Deer Valley MPD has been designed to place Development on the most Developable Land and least visually obtrusive portions of the Site. No Sensitive Lands are located on the subject property.

11.The MPD, as amended, promotes the Use of non-vehicular forms of transportation through design and by providing trail connections. Shuttle service is provided by various hotels and inns within the MPD. Future development of Lot I will provide pedestrian circulation to the Silver Lake plaza and may also provide shuttle service for guests. The City transit system has a stop at the turn out in front of the Goldener Hirsh.

12.The MPD amendment was noticed and public hearings held in accordance with this Code.

13.The MPD amendment provides opportunities for incorporation of best planning practices for sustainable development, water conservation, and energy efficient design by allowing a common parking structure, internal circulation between building masses, consolidated utilities, pedestrian access to common plazas, and utilization of shuttle services and energy efficient building design and construction.

14.The MPD amendment as conditioned addresses Physical Mine Hazards and Historic Mine Waste mitigation in compliance with the Park City Soils Boundary Ordinance.

Conditions of Approval – Deer Valley MPD

1. Prior to issuance of a building permit on Silver Lake Village Lot I, the property owner shall submit to the City a Physical Mine Hazards and Historic Mine Waste report. If historic mine waste is located on the site, a mine waste mitigation plan shall also be submitted in compliance with the Park City Soils Boundary Ordinance requirements and regulations as described in the Park City Municipal Code. This shall be noted on Exhibit 1 of the final executed 12th Amended Deer Valley MPD document as a footnote for Lot I.

2. If a single building is proposed on combined Lot I, the building shall be designed to be broken into more than one volumetric mass above final grade, exhibiting both horizontal and vertical articulation. Common underground parking is permitted and consolidated access is encouraged. This shall be noted on Exhibit 1 of the final executed 12th Amended Deer Valley MPD document as a footnote for Lot I.

3. Commercial uses allocated on Exhibit 2 for Lot D (Goldener Hirsch Inn) will not change from the current 2,062 square feet. Footnote #5 is added and

states, "Commercial uses on Silver Lake Village Lot D include 2,062 sf as allocated from this Amended and Restated Large Scale MPD, plus support commercial".

4. The final executed MPD document shall be recorded at Summit County within six months of the Planning Commission approval of the amendment or the approval shall be void unless a written request for an extension is submitted prior to expiration date and approved by the Planning Director.

2. 7520-7570 Royals Street East- A 2nd Amendment to the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision combining Lots F, G, and H into one platted lot, Lot I and amended Lot D of the Silver Lake Village No.1 Subdivision to increase the area of skier and pedestrian easement by approximately 749 square feet. (Application PL-15-02966)

Vice-Chair Joyce continued with the Plat Amendment until Commissioner Strachan returned to the meeting and assumed the Chair.

Vice-Chair Joyce recalled that the Planning Commission continued this item at the last meeting to make sure that all three items were in sync with the support commercial transfer, which was no longer an issue.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for the Second Amendment to the Re-subdivision of Lots 1 and 2, Silver Lake Village Number 1 Subdivision based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 7520-7570 Royal Street East - Re-Subdivision

1. The property is located at 7520, 7530, 7540, and 7570 Royal Street East.

2. The property is in the Residential Development (RD) Zoning District and is subject to the Deer Valley Master Planned Development, as amended.
3. The subject property consists of platted Lots D, F, G, and H of the Re-Subdivision of Lots No.1 and No. 2 Silver Lake Village No. 1 Subdivision.
4. This plat amendment creates one (1) lot of record, to be known as Lot I, from three platted lots, namely Lots F, G, and H.
5. Lots F, G, and H are currently vacant, undeveloped lots. The applicant desires to construct a multi-family building on Lot I, consistent with the Deer Valley MPD and subject to an approved Conditional Use Permit.
6. These Lots are currently utilized as temporary parking for Silver Lake Village and Deer Valley Resort. The parking is roughly paved and not striped and depending on the level of parking management can accommodate 60 to 100 vehicles.
7. Per the existing plat, Lot D consists of 10,082 sf of fee simple lot area and 5,122 sf of pedestrian and skier circulation and easement area. Lot D is amended to reflect the as-built condition of the building by increasing the skier and pedestrian circulation easement by 749 sf and decreasing the fee simple area by the same amount. An easement for the bridge connection is proposed on a portion of Lots D and I and over Sterling Court. Amending Lot D will result in 9,333 sf of fee simple area and 5,871 sf of skier easement.
8. Per the existing plat, Lot F consists of 8,766 sf of fee simple area and 6,622 sf of pedestrian and skier circulation and easement area.
9. Per the existing plat Lot G consists of 7,772 sf of fee simple area and 8,581 sf of pedestrian and skier circulation and easement area.
10. Per the existing plat Lot H consists of 7,879 sf of fee simple area and 11,166 sf of pedestrian and skier circulation and easement area.
11. Lot I is proposed to consist of 50,786 sf (1.166 acres) with platted utility and access easement areas.
12. The fee simple areas of Lots F, G, and H are to be owned by the applicant. Transfer of ownership of the easement areas around Lots F, G, and H was approved by the Silver Lake Village Owner's Association on June 3, 2016. Easement area around Lot D will continue to be owned by the Silver Lake Village

Owner's Association.

13.A condominium plat, known as Mount Cervin Villas, was recorded on Lot F, as Phase 2 of the existing Mount Cervin Condominiums, which were constructed on Lot E. Lot E, is not part of this plat amendment and the Mount Cervin Condominiums are not owned by this applicant. Mount Cervin Villas were never constructed.

14.The applicant will vacate the Mount Cervin Villas condominium plat on Lot F (which they also have title to) with recordation of this plat amendment or with recordation of a new condominium plat for the Goldener Hirsch Inn CUP.

15. A condominium plat for the multi-unit residential building proposed on Lot I, subject to the Goldener Hirsch Inn CUP, is required prior to individual sale of any units.

16.A condominium plat, known as Golden Deer Condominiums, was recorded on Lot D, as the existing Goldener Hirsch Inn. The condominium plat was amended in 2007 to add 272 sf to the restaurant. A second amended Golden Deer Condominium plat will be submitted for review and approval to memorialize amendments proposed with the Goldener Hirsch Inn Conditional Use Permit, including converting two existing residential units (843 sf) into common area to accommodate the proposed bridge connection to the multi-unit residential building proposed on Lots F, G, and H.

17.The plat amendment combines Lots F, G, and H, and the associated pedestrian and skier circulation easement areas, into one (1) 1.166 acre (50,786sf) lot of record, to be known as Lot I and associated utility, skier and pedestrian circulation easement areas.

18.The plat amendment provides a bridge easement for the proposed bridge connecting Lot D to proposed Lot I across Sterling Court, a private street.

19.There are no minimum or maximum lot sizes in the RD District.

20.Silver Lake Village No. 1 Subdivision was approved by City Council on April 20, 1989 and recorded at Summit County on June 21, 1989.

21.Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision was approved by City Council on October 5, 1989 and recorded at Summit County on November 8, 1989.

22. Multi-family buildings are allowed in the RD District, subject to requirements of the Deer Valley MPD, as amended.

23. Access to the property is from Royal Street East, a public street, and Sterling Court, a private street.

24. Public utility and access easements, as required by the City Engineer and other service providers, consistent with the final utility plan for the Goldener Hirsch Inn Conditional Use Permit shall be shown on the plat prior to recordation.

25. The final mylar plat is required to be signed by the Snyderville Basin Water Reclamation District to ensure that requirements of the District are addressed prior to plat recordation.

26. Snow storage area is required along Royal Street East due to the possibility of large amounts of snowfall in this location.

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

Conclusions of Law – 7520-7570 Royal Street East – Re-Subdivision

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code, the Deer Valley MPD, 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 – 7520-7570 Royal Street East – Re-Subdivision

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of

City Council approval. If the plat is not recorded 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 expiration and an extension is granted by the City Council.

3. A ten foot (10') wide public snow storage easement is required along the Royal Street East frontage of the property and shall be shown on the plat prior to recordation.

4. Easements, as required by the City Engineer and other utility service providers, and consistent with the final approved utility plan for the Goldener Hirsch Inn Conditional Use Permit, shall be shown on the plat prior to recordation, including but not limited to; placement of utility structures, boxes and transformers, storm water detention, and an approved fire plan.

5. Modified 13-D sprinklers are required per the Chief Building Official and shall be noted on the plat.

6. All requirements of the Snyderville Basin Water Reclamation District shall be satisfied prior to recordation of the plat and/or noted on the plat.

7. Utility structures such as ground sleeves and transformers and other dry utility boxes must be located on the Lot or within easement areas on the property.

8. The final utility plan must address storm water detention on the Lot, or within the easement areas.

3. 7520-7570 Royal Street East- Conditional Use Permit for 34 residential units on Lot I of the Amendment to the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision. (Application PL-15-02967)

Neither the Staff nor the applicant had comments or a presentation. The Commissioners had no comments or questions.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to APPROVE the Goldener Hirsch Inn Conditional Use Permit based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the Staff report. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 7520-7570 Royal Street East – CUP

1. The property is located at 7520-7570 Royal Street East with access proposed off of Sterling Court, a private street.
2. The property is zoned Residential Development subject to the Eleventh Amended and Restated Large Scale Master Planned Development, aka Deer Valley MPD, as amended.
3. On October 16, 2015, the applicant submitted a request for a Conditional Use Permit for an expansion of the existing Goldener Hirsch Inn located at 7520-7570 Royal Street East.
4. This Conditional Use Permit is subject to approval of the proposed 12th Amended and Restated Large Scale Deer Valley Master Planned Development Permit, submitted on April 27, 2016, for concurrent review. The MPD amendment application requests to combine Silver Lake Village Lots F, G and H into one Lot I and to transfer 843 sf of residential uses (0.4215 UE) from Lot D to Lot I. Lot D would be reduced to 5.5785 UE of residential uses.
5. This Conditional Use Permit is subject to approval of the Second Amended Re-Subdivision of Lots No.1 and No. 2 Silver Lake No. 1 Subdivision plat amendment, submitted on October 16, 2016, for concurrent review. The plat amendment application requests combination of Silver Lake Village Lots F, G, and H into one lot, Lot I.
6. The 1.17 acre Lot I is currently vacant undeveloped land that has been used as a temporary parking lot for Silver Lake Village and Deer Valley Resort for thirty years or more. This property provides approximately 60 temporary parking spaces (depending on the level of parking management) on a roughly paved surface.
7. The Deer Valley MPD assigns a total of 34 UE to Silver Lake Village Lots F, G and H and 6 UE to Silver Lake Village Lot D.
8. The Twelfth Amendment to the Deer Valley MPD notes that Lot D is assigned 2,062

square feet of commercial area plus support commercial uses.

9. Lot D is the location of the existing Goldener Hirsch Inn. The Hirsch currently has a total of 11,104 sf of residential floor area (20 separate units). The DV MPD allocated 6 UE of residential density (12,000 sf). The existing building also contains 3,493 sf of platted commercial floor area, based on the Golden Deer Condominium and First Amended Golden Deer Condominium plats. This support commercial (restaurant, bar, lounge, gift shop, front desk, etc.) consists of 2,062 sf of DV MPD assigned commercial and 1,431 sf of support commercial approved with the 1988 Golden Deer (MPD) approval. An additional 500 sf of support meeting space was also approved.

10. At the time of MPD approval support commercial/support meeting space was based on the total floor area of the building minus the parking garage and support commercial (24,693 sf). A total of 4,532 sf of support commercial/support meeting space was permitted (2,062 sf from DV MPD and 2470 sf based on the building floor area).

11. The total existing support commercial and support meeting space in the Goldener Hirsch Inn is 3,993 sf (3,493 of platted commercial floor area plus the 500 sf of common area meeting space on the second floor). No changes are proposed to the commercial areas.

12. The MPD does not assign commercial to Lots F, G, and H (aka Lot I). These Lots are allowed support commercial calculated per the LMC at the time of approval of the CUP. The applicants are not proposing support commercial with this permit.

13. On October 16, 2015, the Planning Department received a complete application for a Conditional Use Permit (CUP) requesting approval for a total of 68,843 sf (34.4215 UE) of residential uses, for 38 residential units ranging in size (area) from 570 to 2,379 square feet. The total residential floor area includes the 843 sf (0.4215 UE) transferred from the existing Inn (on Lot D) and the 68,000 sf (34 UE) entitled with the Deer Valley MPD for Lots F, G, and H, per the proposed 12th Amended Deer Valley MPD.

14. The project has a total of 31 lockouts associated with the 38 units to facilitate the viability of existing hotel operations. The lockout unit floor area is included in the total unit area and the parking calculations.

15. The proposed building is oriented towards Sterling Court and generally has a north/south axis. The site is broken into more than one volumetric mass in order to

match the scale of the surrounding buildings. The north building contains sixteen units ranging from 2,180 to 2,265 sf. and an ADA unit on the ground floor. The center building contains six units of approximately 2,000 to 2,379 sf and includes the lobby and amenities. The south building contains sixteen units comprised of eight 570- 588 sf hotel rooms and eight units of approximately 1,808 sf to 2,205 sf

16.The total proposed building area is 154,578 square feet. Included in the total area, in addition to the 68,843 square feet of residential units, are approximately 8,300 square feet of residential accessory uses (recreation amenities, business center, workout area, etc.); 22,878 square feet of circulation, back of house, restrooms, etc.), 3,398 square feet of support meeting space, a 2,162 square foot required ADA unit as common area, and 49,077 sf of parking garage (in addition to the 68,843 square feet of residential units). This area is exclusive of any unenclosed porches, decks, and patios.

17.No UE are required for residential accessory uses, support meeting space, back of house area, or the parking garage. No support commercial uses are proposed with this Conditional Use Permit.

18.The Deer Valley MPD does not require open space on this parcel as the unit equivalent formula is used for density calculations.

19.Building Height allowed per the Deer Valley MPD is 59' (plus 5' to 64'), provided that the peak of the roof does not exceed USGS elevation 8186'. The base elevation is identified as USGS elevation 8122'. The proposed building does not exceed USGS elevation 8186' to the highest part of the roof.

20.The proposed building is similar in physical design, mass, and scale to surrounding buildings and while different than surrounding structures in terms of architectural style, design, and character, the proposed building has elements that provide a continuity and compatibility of design for the Silver Lake Village. By incorporating similar design elements and materials, as required by the Deer Valley Design Review Board, the applicant has worked to make the building compatible with surrounding structures in terms of style, design, and detailing. By reducing the amount of glazing, reworking the balcony design, and provided additional building articulation, particularly along Royal Street, the revised building is more compatible with the general architectural theme of the Village while providing a more updated and fresh style to the area. The proposed design does not detract from the overall architectural character of the area.

21.Final design approval by the Deer Valley Architectural Review Board is a

requirement of the Deer Valley MPD.

22. Parking requirements are based on the size and number of residential units. A minimum of 76 spaces are required for the number and sizes of proposed units. A total of 110 parking spaces are proposed within an underground parking garage. Thirty-four extra parking spaces will be available for flexible use for public parking and overflow.

23. The Goldener Hirsch will continue to meet the parking requirements for the remaining residential units with existing underground parking under the Goldener Hirsch Inn building. A hotel managed shuttle service is proposed to reduce traffic trips. Guest parking will be managed through valet service within the parking structure.

24. A final utility plan, including location and details for storm water facilities and dry utilities, to be located on the property, in addition to all other utilities, will be provided with the building permit plans for final approval by the City Engineer, SBWRD, and the Fire District.

25. Sterling Court provides access, including emergency access, to the project from Royal Street East. There is a fire code compliant turn around area at the southern end of the Court. Enhanced fire protection and emergency access for the west side of the property were coordinated with the adjacent property owner (Stein's) and will be reflected on the final utility and fire protection plans to be submitted with the building permit plans.

26. Enhanced pedestrian pathways along the eastern property line are proposed, as well as pedestrian pathways and outdoor plazas between the spa pool area and the recreation area and ski locker rooms.

27. Natural vegetation on the southern portion of the site includes native grasses and shrubs.

28. Four existing buildings in the Silver Lake Village area with access off of Sterling Court (Goldener Hirsch, Royal Plaza, The Inn, and Mt Cervin) generally have a north-south orientation and are similar in height and scale to the proposed building as designed with vertical and horizontal articulation and massing broken into three main components.

29. The Land Management Code allows for 20' setbacks along Royal Street (25' for front facing garage), 12' side setbacks, and 15' rear setbacks. The proposed building

has a 20' setback along Royal Street, a 15' setback along Sterling Court (a private street) (per the subdivision plat), a 12' setback along the west side property line and a 15' rear setback adjacent to the Mt. Cervin property line. The Planning Commission may alter interior setbacks within the Deer Valley MPD at the time of review of the associated plat amendment.

30. All exterior lights and signs must comply with the applicable Park City ordinances and code. Exterior lights must be identified on the building permit plans and shall be down-directed and shielded. No additional signs are proposed with this permit. Approval of a sign permit is required prior to installation of any new regulated signs.

31. A condominium plat and condominium declaration to identify private, common, and limited common areas shall be recorded prior to sale of any unit.

32. The Deer Valley MPD is not subject to the requirements of the Sensitive Lands Overlay.

33. The site is within the area subject to the City's Urban Wildland Interface Ordinance for fire prevention.

34. On January 13, 2016 the Planning Commission discussed the proposal, conducted a public hearing, and continued the item to February 24, 2016.

35. On February 24, 2016 the public hearing was continued to a date uncertain. There was no public input provided at the hearings on January 13th or February 24th, 2016.

36. Staff received public input from a neighboring property owner in May expressing safety concerns with the driveway access onto Sterling Court; the height of the proposed sky bridge blocking views; and potential pedestrian conflicts with service vehicles, cars, and emergency vehicles if access is permitted on Sterling Court instead of Royal Street East.

37. The project was on hold until August 2016 for the applicant to resolve ownership and utility issues.

38. Staff maintained contact with the property owner and upon receipt of revised plans and contacted this neighbor to set up a meeting to discuss the above mentioned safety concerns.

39. The applicant provided a traffic and safety analysis of the project on September 20, 2016 for inclusion in the Planning Commission packet.

40. On September 28, 2016, the City Engineer provided a memo addressing the safety and adequacy of Sterling Court and made a finding that Sterling Court should function adequately with the added density and should not be a safety concern.

41. Legal notice was published in the Park Record and on the Utah Public Notice Website on September 9, 2016 and the property was re-posted on September 14, 2016 for the September 28, 2016 hearing. Courtesy mailing was provided to the property owners within 300' of the property.

42. The Conditional Use Permit application was reviewed for consistency with the Park City General Plan.

43. The applicant stipulates to the conditions of approval.

Conclusions of Law – 7520-7570 Royal Street East - CUP

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

Conditions of Approval – 7520-7570 Royal Street East - CUP

1. The plans and application for a Building Permit must be in substantial compliance with the plans reviewed by the Planning Commission on November 30, 2016.
2. This Conditional Use Permit is subject to approval of the proposed 12th Amended and Restated Large Scale Master Planned Development Permit and the Re-Subdivision of Lots No.1 and No. 2 Silver Lake No. 1 Subdivision plat.
3. Prior to building permit issuance the amended subdivision plat for Silver Lake Village to combine Lots F, G, and H into one lot of record, shall be recorded at Summit County. The plat shall identify the 15' setbacks along Sterling Court.
4. Prior to building permit issuance a final landscape plan shall be reviewed and approved by the Planning and Building Departments.

5. Prior to building permit issuance the plans shall be approved by the Deer Valley Architectural Review Board.

6. The final landscape plan shall comply with the City's Wildland Urban Interface Ordinance for defensible space and fire prevention. Drought tolerant landscaping and water conservation measures shall be used per requirements in the LMC.

7. All conditions of approval of the Deer Valley Master Planned Development, as amended, apply to this project.

8. A Construction Mitigation Plan shall be submitted at the time of Building Permit application. The Plan shall include a regulation for construction traffic, including how excavated materials will leave the site. Downhill truck traffic is required to use Marsac Avenue, a State Highway, rather Royal Street, a residential city collector street due to the location of an emergency run-away truck ramp off Marsac Avenue, unless otherwise authorized by the City Engineer and Chief Building Official. The CMP shall address closure dates due to Special Events, as well as other items requested by the Chief Building Official.

9. All exterior lights and signs must comply with applicable Park City ordinances and codes.

10. Exterior lighting must be identified on the building permit plans and shall be down directed and shielded. Any existing, non-conforming exterior lighting shall be brought into compliance with the current LMC requirements.

11. Approval of a sign permit is required prior to installation of any regulated signs.

12. A final utility plan shall be provided with the building permit application for final approval by the City Engineer, SBWRD, and the Fire District prior to building permit issuance.

13. A final fire protection plan must be submitted to and approved by the Chief Building Official and Fire District prior to Certificate of Occupancy.

14. Sterling Court meets the minimum width of 20' for emergency access. No parking is permitted along the Court and curbs shall be painted and/or signed to clearly mark the 20' fire lane.

15. As common area, the required ADA unit may not be sold. A residential unit must be

rented in conjunction with the ADA unit unless the ADA unit is included in the total residential UE.

16.All exterior mechanical vents and extrusions shall be painted to match the exterior siding materials.

17.Exterior mechanical equipment shall be screened to mitigate for any mechanical factors that might affect people and property off-site.

18.Standard Project Conditions of Approval apply to this project.

19.Storm water system must retain the first flush of a storm as defined by the State of Utah. Storm water system shall be shown on the final utility plan.

20.Above ground dry utility facilities shall be located on the property.

21.Pool and plaza hours are limited from 7AM to 10PM and compliance with the Park City noise ordinance is required.

22.Applicant shall submit a report and evidence of noise, disturbance, and activity complaints on and off-site, including the resolution of any complaint matters, to the Planning Commission one year from issuance of Certificate of Occupancy. Staff will provide an update to the Planning Commission. The Commission may add additional Conditions of Approval to meet the Conditional Use Permit requirements for mitigation of noise, based on the report and evidence of complaints.

23.Outdoor activities on the Plaza, including outdoor dining and outdoor events, require compliance with the Land Management Code, including approval of administrative Conditional Use permits, if applicable.

4. 8680 Empire Club Drive - A Conditional Use Permit for a 1,094 sf. addition to the Talisker Tower Club restaurant and expansion of the basement locker room. (Application PL-16-03177)

Planner Whetstone requested that the Planning Commission conduct a public hearing and continue this item to December 14, 2016.

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

MOTION: Commissioner Joyce moved to CONTINUE the Tower Club CUP Phase I Amendment to December 14, 2016. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

5. **8200 Royal Street East – Third Amendment to Stag Lodge, Phase 1 Condominium Plat to convert what is currently designated as Common Area to Limited Common Area to allow construction of a new deck.**
(Application PL-16-03202)

Planner Ashley Scarff reviewed the application for the Third Amendment to the Stag Lodge, Phase 1 Condominium Plat, specifically for Unit 10, at 8200 Royal Street East. The purpose of the condominium plat amendment is to convert an area currently designated as common owner to limited common ownership, which would allow for the extension of an existing deck that lies outside of the main level living room of Unit 10. No other units in the condominium would be affected as part of the proposed amendment.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval as stated in the draft ordinance.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation for the Third Amended Condominium plat for the Stag Lodge, Phase I, Unit 10, located at 8200 Royal Street East, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 8200 Royal Street East

1. The property is located at 8200 Royal Street East, Unit 10.
2. The property is located within the Residential Development (RD) District and is subject to the Eleventh Amended Deer Valley MPD (DVMPD).

3. Within the DVMPD, a project can utilize either the City's Unit Equivalent (UE) formula of 2,000 square feet per UE or develop the allowed number of units without a stipulated unit size, as long as the project maintains 60% or more of open space. In the case of Stag Lodge Phases I-IV, the developer utilized the number of units with no size restriction instead of the unit equivalent formula.

4. Stag Lodge Phase I condominium plat was approved by City Council on January 10, 1985 and recorded at Summit County on March 4, 1985.

5. The First Amended Stag Lodge Phase I plat was approved by City Council on June

6, 2002 and recorded at Summit County on January 17, 2003. The First Amendment replaced sheets 2, 3, 4, 5, and 6 (of 6) of Stag Lodge Phase 1, and converted areas of Limited Common and Common Ownership to Private Ownership.

6. The Second Amended Stag Lodge Phase I plat was approved by City Council on July 1, 2004 and recorded at Summit County on May 25, 2005. The Second Amendment affected sheets 2, 4, and 5 (of 6) of Stag Lodge Phase 1, and converted Common Ownership Area to Private Ownership in order to reflect as-built conditions of units that had been combined by removing interior Common walls that separated them.

7. On June 6, 2016, an application was submitted to the Planning Department for the Third Amended Stag Lodge Phase I condominium plat for Unit 10, to convert what is currently designated as Common Ownership area to Limited Common Ownership area to allow for the extension, and appurtenant use of, an existing deck outside of Unit 10's main-level living room. The application was deemed complete on October 7, 2016.

8. A conversion of Ownership from Common to Limited Common (and vice-versa) does not require that a plat amendment be recorded; however, the applicant requested that the change be recorded to ensure that the deck area is appurtenant to Unit 10 and to the exclusion of other units.

9. The consent of 2/3 or more of the Unit Owners is required and 100% supported the conversion.

10. The amendment will not affect the overall number of residential units and at least 60% of open space is maintained.

11. The proposed amendment and deck extension will not increase the existing building footprint, or amount of Private Ownership area.

12. The proposed plat amendment does not increase the parking requirements for this unit.

13. The findings in the analysis section are incorporated herein.

Conclusions of Law – 8200 Royal Street East

1. There is good cause for this amendment to the condominium plat.
2. The amended condominium plat is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. The amended condominium plat is consistent with the Deer Valley Master Planned Development, 11th Amended and Restated, which is most current at time of application.
4. Neither the public nor any person will be materially injured by the proposed condominium plat amendment.
5. Approval of the condominium plat amendment, subject to the conditions of approval below, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 8200 Royal Street East

1. The City Attorney and City Engineer will review and approve the final form and content of the amended condominium plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation.
2. The applicant will record the amended condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the record of survey will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. All other conditions of approval of the Stag Lodge Condominium record of survey plats as amended and the Deer Valley MPD shall continue to apply.
6. **1401 & 1415 Kearns Blvd., 1415, 1635, 1665, 1685, & 1705 Bonanza Dr., 1420 & 1490 W Munchkin Rd., – Bonanza Park North East Master Planned**

Development (MPD) Pre-Application determination in the General Commercial (GC) District. Project consists of a mixed-use development containing commercial space on the first floor and office or residential uses on the upper levels. Project includes surface parking and one level of underground parking. (Application PL-15-02997)

Planner Francisco Astorga reported that this item was a pre-application for a master planned development for the Bonanza Park East Master Plan, which is a small section of the entire Bonanza Park neighborhood, consisting of 9 parcels. This pre-application was previously before the Planning Commission on May 11th, July 27th, August 24th and October 11th. Some of those dates were simple Continuations, and the others involved presentations and a review of the application.

Planner Astorga stated that the pre-application was recently modified to reflect some of the comments and concerns that were raised by the Staff and the Planning Commission, and some of the percentages have changed. The Staff and the applicant were prepared to review those specific items if requested by the Planning Commission. Planner Astorga emphasized that this was a pre-application for a master planned development. Issues such as height exceptions, reduced setbacks, findings regarding open space calculations, and all of the development standards of the master planned development will be addressed at the time of the full MPD application. Planner Astorga stated that a pre-application does not vest any densities or heights and it does not reduce setbacks. It simply allows the applicant to present their preliminary conceptual plan to the Planning Commission and the public, and to have a productive discussion in preparation for the MPD application submittal.

Planner Astorga noted that Rory Murphy and Craig Elliott, representatives for the applicant, were present to answer questions. The applicant did not intend to give a full presentation this evening; however, if requested, they were prepared to review some of the exhibits.

Planner Astorga had received a response from the applicant addressing the goals and objectives of the General Plan and regarding the specific Bonanza Park neighborhood section. Planner Astorga stated that the General Plan is not an enforceable document. The role of the General Plan is to guide the LMC regarding the goals, objectives and policies.

Planner Astorga commented on the revisions to the plan. The most significant change was the amount of commercial, including the office/business, and an increase in the residential. He noted that the Planning Commission would have time to discuss that more specifically at the time of the full MPD. He reiterated that the numbers are not vested with the pre-application.

Planner Astorga noted that this item was continued from the October meeting. The Staff requested that the Planning Commission conduct a public hearing. As a courtesy, letters were sent to property owners within 300 feet of the project. In addition, six signs were posted throughout the project.

The Staff was prepared to provide finding for specific items that have been identified, and to finalize the conceptual preliminary pre-application stage so the applicant could move forward and submit the full MPD application.

Rory Murphy, representing the applicant, thanked the Planning Commission and Staff for their efforts and comments to help them design an appropriate re-development for the project location. Mr. Murphy stated that the applicant heard very clearly the concerns raised by the Commissioners, the public and the Staff regarding the heights, the proposed uses, the location and extent of open space, and the need for additional affordable housing within the project. Mr. Murphy understood that those issues would need to continue to be addressed as the project enters the MPD phase.

Mr. Murphy commented on the affordable housing element that the City has labeled as one of its three critical priority items. He noted that the applicant has built two affordable housing projects in advance of the CUP application, and that effort should be recognized and encouraged. The 1440 Empire project is currently providing housing for 48 workers. The Clock Tower project currently houses 32 workers. He was not aware of any other landowner who has done that.

Mr. Murphy stated that in the pre-application process they voluntarily increased their project requirement to 20% of the total units that would be decided to workforce housing. He believed this was a unique position for a landowner to take and reflected the comments and concerns of the Staff and Planning Commission on this very important issue.

Mr. Murphy addressed uses. They have shown what appears to be an inordinate amount of commercial use on the plan; and they heard comments from the Staff and the Planning Commission to that effect. Mr. Murphy explained that the reason they continue to show that in buildings A and B, is a desire to include the Sundance Institute and the Kimball Arts Center as part of this proposal. He clarified that neither organization had committed to the site and both were undertaking feasibility studies to determine the best direction for their organizations. However, they have expressed interest in the site and the applicant is continuing to show the two buildings as commercial as a placeholder for those organizations should they choose to move forward with this applicant. Mr. Murphy stated that if an agreement is not reached with these organizations, they would likely move in the direction of residential in that area.

Mr. Murphy noted that another pertinent comment was the extensive retail shown in the other buildings, and they have reduced that considerably from the earlier proposals to be limited in scope and prevent empty store fronts.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Campbell thought this process was a great example of the coordination they were trying to do for projects like this. The applicant listened and made substantive changes based on what they heard. He thanked them for listening.

Commissioner Thimm echoed Commissioner Campbell. He found it refreshing to see the plan evolve through their review over the past months. Commissioner Thimm referred to the 20% affordable units and asked if there was a targeted AMI for those units. Mr. Murphy stated that the City directs the AMI and they would be meeting with Rhoda Stauffer and Anne Laurent.

Commissioner Thimm commented on the applicant's responses that were included in the Staff report. One talks about limiting nightly rentals and he asked if those numbers were defined. Mr. Murphy replied that it would be addressed at the MPD phase. They heard the comment and wanted to acknowledge that it was part of their thinking moving forward. He stated that the affordable units would be limited in nightly rental, and they were continuing to discuss other buildings or areas that might also fall into that category.

Commissioner Thimm referred to discussion in the Staff report about the design and the idea of eclectic massing. As the design evolves, he would encourage that to continue so they end up with something that can become a fabric of the overall neighborhood rather than having a themed community.

With respect to sustainability, Commissioner Thimm understood from the comments that there is not a plan to go through a recognized level of certification. In previous meetings they talked about LEED ND, and the answer seemed to be that this project would comply with the basic minimum standards of the Energy Code. Commissioner Thimm questioned how that measures up with the idea of the goal of maximum environmental sustainability. He believed that matching up with the minimum Energy Code was a low bar.

Mr. Murphy remarked that the LEED directives are solid and should be followed. However, his personal feelings about the LEED program is that you pay someone to tell them to do what they should already be doing. Mr. Murphy thought the City ordinance was specific and encompassing, and they would take that as far as the City wants to go. If the City Code is not good enough, they would take into consideration any comments from the Commissioners and Staff on that issue. Mr. Murphy clarified that his comments regarding LEEDS was his personal opinion. He admired the system itself, but he was not impressed with how it is administered.

Craig Elliott, representing the applicant, stated that he has LEED certified people in his office and they are capable of doing that if necessary. He explained that in the past they have followed other programs such as the National Green Building Standard, which is an ANSI Code. They have also done Energy Star projects which also have additional components. They are tied into development parcels that include the site and overall development. Mr. Elliott stated that they would come back at the next stage with the approach they plan to take and how it will be applied. He noted that all of the projects they were doing exceed the minimum standards they are required to meet as an office. Mr. Elliott believed the revised site plan would start to show their thinking on some of the environmental issues. It was a beginning point, but he included it in this phase so everyone would understand that they were headed in that direction. They would come back with an answer on those pieces.

Commissioner Thimm thought the National Green Building Standard was an appropriate platform for the residential side of the project. In going through this process, he asked if there was a way to stipulate that the Planning Commission would expect that sustainability and energy conservation would go beyond the minimum code requirements. Assistant City Attorney stated that the Commissioners could express that wish, but it needs to be tied to the MPD criteria. Once they move past the pre-MPD process, the Planning Commission could look at those criteria to determine whether or not that could occur.

Mr. Murphy stated that the applicant would voluntarily agree to that as a condition of approval.

Commissioner Joyce stated that he also enjoyed watching the project change based on their feedback, and how it has improved. However, he struggles with the process of a pre-application for an MPD because they try to find compliance with the General Plan, but the General Plan does not have a lot of detail and they are not allowed to ask the applicant for details. Commissioner Joyce stated that from a General Plan standpoint, the area as it currently exists is the vision of what it is supposed to be, which is light industrial and commercial to serve the people who live there, and residential for people to live there. He pointed out that talking about removing the gas station, a coffee shop, a car wash, a

market, and an urgent care center is opposite from what they were initially trying to protect. Those are the services for the day to day life of the people who live there. Commissioner Joyce understood that the applicant has tried to accommodate as much as possible and they cannot preserve everything. Part of the challenge is that this project is 1/18th of Bonanza Park. It is the first part and he looks at it as precedent setting. Taking it to an extreme, he tries to envision having 18 of this same type of proposal, which could result in eliminating grocery stores, drug stores, etc. His concern for the character of the neighborhood is that theoretically it could become 18 times what this applicant was proposing to build. They could end up with residential and commercial that is different than what was intended to serve the locality.

Commissioner Joyce clarified that he has had issues since they first saw this pre-application, and he continues to have issues. He appreciated that the applicant was making an effort to try to address those issues, but he still had concerns about the purpose statement of that neighborhood. It was easy to imagine that if they trample on it, it would keep occurring lot by lot as Bonanza Park is developed. He anticipated seeing a number of proposals in the near future.

Commissioner Joyce noted that the applicant was asking for additional density, four and five stories, and reduced setbacks for the Frontage Protection Zone. After listening to the work session presentation regarding traffic problems, he was concerned about exacerbating the existing problems at the hub where Bonanza, SR248 and SR224 all come together. Commissioner Joyce liked their proposals for affordable housing, and their plan for non-profits and other things, but as a Planning Commission they have to decide whether those items are worth giving extra density or height and setbacks. As they fight through traffic problems, it is difficult for him to add density beyond the significant amount that is already vested.

Commissioner Joyce stated that given the loose state they were in with the pre-application for an MPD, he did not have a good reason to hold up the process. However, as they get into the full MPD process, he would be looking for anything the applicant could do to address the nature of that neighborhood, the density and the height. He pointed out that whatever answers are given, he would be multiplying it times 18.

Mr. Elliott explained that the applicant worked diligently to keep the gas station in the area, but they wanted five times the amount of site area that they have today. Mr. Elliott stated that the applicant spent a lot of money and time working out a solution for the Urgent Care, but they chose to buy the Pizza Hut. They are working with the owner of Anaya's Market to find a better location. Mr. Elliott remarked that there is an expectation locally and with the ownership group to find ways to solve those problems.

He pointed out that the ownership group has spent a lot of time and money trying to work on solutions, but they do not always get to make the decisions.

Mr. Murphy appreciated Commissioner Joyce's comments, and they would continue to work on those issues. If individual Commissioners have a vision, he encouraged them to express their vision in writing and submit it to Planner Astorga, who would pass it on to them. Mr. Murphy understood what Commissioner Joyce was saying and that it might not work for him right now. However, as time goes on, if it articulates itself and he shares it with them, they will listen.

Commissioner Phillips stated that he agreed with all the comments and he was trying to keep an open mind on both sides. He was looking forward to getting into the details and being able to analyze the project.

Chair Strachan noted that this was a pre-MPD application and they were only looking for General Plan Compliance. The applicant has a long way to go and finding compliance with the General Plan was in no way a thumbs up or thumbs down action. He expected to talk a lot about height and setbacks. He remarked that these were the most detailed plans he had ever seen in a pre-MPD and he appreciated their efforts. However, he found some of the plans to be troubling and he anticipated having significant discussions.

Chair Strachan stated that this biggest issue was whether or not to allow nightly rentals. He was unsure how they could make it the type of live/work neighborhood that the General Plan envisions if they allow nightly rentals, because will be condominiumized and used during the holidays, and sit vacant the remainder of the year. That is not conducive to neighborhoods and they would not want it to happen in that area.

Chair Strachan stated that another issue is affordable housing. He believed the applicant was on the right track and he thanked Mark Fischer for building the Empire and Rail Central first. They would like all developers to build the affordable housing first and then build the market rate units. He would expect that to happen in this proposal. Chair Strachan would be looking for a condition of approval in the end that requires affordable housing to be built first because it does languish as mentioned earlier, and the affordable units never get built.

Chair Strachan was satisfied with the answers to the green standard issues that Commissioner Thimm had raised. He would also be looking closely at bike and pedestrian paths. In their letter, the response from the applicant was that there would be strong pedestrian bike paths, but it was unclear what that meant.

Chair Strachan was bothered by the prospects for Anaya's Market. The two examples given were the clinic and the gas station that moved away. He did not want the same result for Anaya's. Chair Strachan stated that there are ways of building goodwill in the community and ways to make the community like the project. He suggested that doing more than what the market might direct to keep Anaya's in its current location may build a great deal of goodwill and get them farther than they might otherwise get if Anaya's goes away.

Chair Strachan agreed with the comments stated by his fellow Commissioners. He thought the Findings of Fact were appropriate and did not need to be amended. Chair Strachan believed the pre-MPD met the general requirements of the General Plan.

Director Erickson read the drafted motion in the Staff report requesting that the Planning Commission make a finding of preliminary compliance with the purpose of the General Commercial District and General Plan of the Bonanza Park East Master Plan Pre-application, located at 1401 & 1415 Kearns Boulevard, 1415, 1635, 1665, 1685 & 1705 Bonanza Drive, 1420 & 1490 West Munchkin Road, based on the Findings of Fact and Conclusions of Law.

MOTION: Commissioner Phillips made a motion to Find Compliance with the General Plan as stated above by Director Erickson. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Bonanza Park North East MPD Pre-application

1. The subject property is located at 1401 & 1415 Kearns Boulevard, 1415, 1635, 1665, 1685, & 1705 Bonanza Drive, 1420 W. & 1490 W. Munchkin Road.
2. The subject site contains 224,801 square feet (approx. 5.16 acres).
3. The subject site consists of nine (9) separate parcels/lots.
4. The property is located within the GC District.
5. Land Management Code (LMC) § 15-6-4 outlines the following process for a MPD Pre-Application.
6. The MPD Pre-Application is intended to allow the applicant to have an opportunity to present the preliminary concepts; provide an opportunity for the Planning Commission to give preliminary input on the concept; and to allow the

public to be given an opportunity to comment on the preliminary concepts so that the applicant can address neighborhood concerns.

7. The Planning Commission is to review the preliminary information to identify issues on compliance with the General Plan and is to make findings that the project initially complies with the General Plan.

8. The MPD Pre-Application does not vest any densities, layouts, heights, setback exceptions, etc. It focuses on identifying conceptual issues of compliance with the General Plan and Zoning.

9. The proposed MPD Pre-Application consists of seven (7) separate buildings identified as Bldg. A - G.

10. The proposed gross floor area is approximately 276,494 sf.

11. Proposed Bldg. A is approximately 54,357 gross floor area with 4 stories (including lower level due to grade change).

12. Proposed Bldg. B is approximately 49,251 sf. gross floor area with 4 stories.

13. Proposed Bldg. C is approximately 16,640 sf. gross floor area with 3 stories.

14. Proposed Bldg. D is approximately 63,346 sf. gross floor area with 4 & 5 stories.

15. Proposed Bldg. E is approximately 49,184 sf. gross floor area with 4 & 5 stories.

16. Proposed Bldg. F is approximately 24,076 sf. gross floor area with 3 stories.

17. Proposed Bldg. G is approximately 19,637 sf. gross floor area with 4 stories.

18. The proposal consists of the following uses:

- a. Residential: 104,357 sf. (52.18 UEs).
- b. Business (Office): 4,371 sf. (4.37 UEs).
- c. Commercial: 87,986 sf. (87.99 UEs).
- d. Residential affordable housing: 20,390 sf.
- e. Circulation: 47,461 sf. formerly 50,124 sf.
- f. Mechanical: 11,929 sf. formerly 11,333 sf.

19. The proposal consists of an underground parking area with two (2) access points.

20.The proposal consists of 355 parking spaces, 271 underground parking stalls plus 84 surface parking stalls.

21.The proposed MPD pre-application would also require the re-platting of the nine (9) lots/parcels.

22.While the proposal provides mixed-use development opportunities for locals to live and work, the City should be reviewing additional studies at MPD stage regarding the long term effects, including the possible effects of gentrification.

23.At this stage the proposal shows a total of 97 residential units, consisting of 23 on-site affordable housing units ranging from approximately 432 to 1,166 sf. and 74 market rate units ranging from approximately 372 to 3,703 sf.

24.The applicant is to provide projected Nightly Rental numbers, residential unit specifics, etc., at the MPD Stage. The Planning Commission may limit the amount of nightly rentals during the MPD review.

25.The applicant in their future MPD Application is to keep in mind and demonstrates placemaking and authenticity by emphasizing human scale, infusion of design elements representative of residents' diverse roots, contemporary design, etc.

26.The MPD application is to address green design and strive towards a goal of maximum environmental sustainability.

27.The current application complies with requirements by the Transportation Planning Department and the City Engineer regarding reducing friction on Kearns Boulevard and Bonanza Drive.

28.The future MPD/CUP application would have to show a more defined character than the current dominant architectural styles within the District.

29.Several Conditional Use Permits need to be submitted concurrently with the full MPD application.

30. The applicant shall apply for a Plat Amendment/Subdivision application concurrently with the full MPD application.

31.The minimum setback around the exterior boundary of an MPD is twenty five feet (25') for parcels one (1) acre in size.

32.The Planning Commission may decrease the required perimeter Setback to the zone Setback if it is necessary to provide desired architectural interest and variation.

33. The applicant proposes the following setbacks:

- a. 68 ft. from Kearns Blvd. (Bldg. A & C)
- b. 40 ft. from Bonanza Dr. (Bldg. A)
- c. 48 ft. from Bonanza Dr. (Bldg. B)
- d. 40 ft. from Bonanza Dr. (Bldg. G)
- e. 25 ft. from Bonanza Dr. (Bldg. F)
- f. 30 ft. from Munchkin Rd. (Bldg. D, E, & F)
- g. 100 ft. from east neighboring site (Bldg. C)
- h. 15 ft. from east neighboring site (Bldg. D)

34.While the proposal complies with the GC District (zone) setbacks, once the MPD application is submitted and deemed complete, the Planning Commission would have to make the findings for such setback reduction from the required 25 ft. for sites that are one (1) acre or bigger to the applicable zone setbacks.

35.The FPZ indicates that any construction within the FPZ located 30 to 100 ft. from the ROW/property line requires Planning Commission review through a filed CUP application.

36.The applicant has not submitted such FPZ CUP application.

37.Conditional Use Permit for construction within the Frontage Protection Zone application is to be submitted concurrent with the full MPD application.

38.The Building Height requirements of the Zoning Districts in which an MPD is located shall apply except that the Planning Commission may consider an increase in Building Height based upon a Site specific analysis and determination.

39.At full MPD Application the Applicant will be required to request a Site specific determination and shall bear the burden of proof to the Planning Commission that the necessary findings can be made.

40.Once the MPD application is submitted, the Planning Department will be able

to provide a thorough review of the height as specified on the LMC MPD section and will be able to make a recommendation to the Planning Commission.

41. The applicant shall submit their Subdivision/Plat Amendment application concurrently with the MPD application to ensure that these road requirements and design standards are met. If the applicant does not bring the Subdivision/Plat Amendment application concurrently with the full MPD staff would then recommend that these standards plus any other applicable requirements be reviewed during the full MPD process.

42. The applicant is to submit TDM strategies to be proposed during the full-MPD application.

43. The development must address the pre-development versus post-development detention of storm water onsite to be addressed at MPD application.

44. A traffic study will be required to further understand the developments impacts to the surrounding street and intersection network to be addressed at MPD application.

45. A utility plan for the proposal has not yet been submitted by the applicant.

46. Snyderville Water Reclamation District, Park City Municipal Corporation's (PCMC's) Department of Public Utilities and Building Department, and Park City Fire Marshall, are unable to comment but would provide comments after such plan is submitted for review prior to any formal approvals including a full MPD by the Planning Commission.

47. The applicant has been made aware that they need to reach out to the Water Reclamation District, Department of Public Utilities, Building Department, and Park City Fire District, separately to ensure compliance with their approval process.

48. The applicant has also been made aware that they are responsible of coordinating the efforts of the various review entities including the City, Water Reclamation District, etc.

49. The Department of Public Utilities request to identify at this time, that there are concerns with water supply, delivery, fire flow, pressure, demands (as provided by the Fire Marshall), etc., throughout the entire project based on the massing

and number of stories being proposed that may exceed existing zoning requirements.

50. The Department of Public Utilities requests that the utility plan to be submitted to the City for review also include how the utility system affects the neighborhood and the City. The utility plan to be submitted shall provide industry standards and shall be detailed enough for the Department of Public Utilities as well as other review entities to have them provide a full thorough review.

51. Park City's Environmental Regulatory Program Manager indicated that the subject property is located within the Park City Landscaping and Maintenance of Soils Cover Ordinance (Soils Ordinance).

52. All soil generated as part of development must either remain on site or be disposed of at an approved disposal facility.

53. Final landscaping must meet Soils Ordinance Requirements.

Conclusions of Law – Bonanza Park North East MPD Pre-Application

1. The Bonanza Park East Master Planned Development (MPD) Pre-Application plans to be located at 1401 & 1415 Kearns Blvd., 1415, 1635, 1665, 1685, & 1705 Bonanza Dr., 1420 & 1490 W Munchkin Rd. within the General Commercial (GC) Zone, comply with the Park City General Plan and are consistent with the purpose statements of the General Commercial (GC) District.

The Park City Planning Commission Meeting adjourned at 7:45 p.m.

Approved by Planning Commission: _____

Planning Commission Staff Report

Subject: Northstar Subdivision First Amended
– Vacating Lot 1
Address: 1061 and 1063 Lowell Avenue
Author: Makena Hawley, Planner
Project Number: PL-16-03328
Date: December 14, 2016
Type of Item: Legislative – A vacation plat from the Northstar
Subdivision and a plat to subdivide 1 lot into 4 lots which is
contingent on this vacation plat.

Summary Recommendations

Staff recommends the Planning Commission conduct a public hearing and continue the hearing of the Northstar Subdivision First Amended – Vacating Lot 1, to January 11, 2016.

Description

Applicant: Illuminus Property Holdings represented by Jon Turkula,
Jaffa Group Architecture
Location: 1061 & 1063 Lowell Avenue
Lot 1, Northstar Subdivision
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and
City Council review and action.

Summary of Proposal

The property owner is requesting to vacate Lot 1 of the Northstar Subdivision in order to create a new subdivision, subdividing the existing lot into four (4) lots of record. The new proposed subdivision is concurrent and dependent with this application under application PL-16-03221.

Planning Commission Staff Report

Subject: 1061 Lowell Avenue Subdivision
Address: 1061 and 1063 Lowell Avenue
Author: Makena Hawley, Planner
Project Number: PL-16-03221
Date: December 14, 2016
Type of Item: Legislative – Plat proposal to subdivide 1 lot into 4 lots which is concurrent and dependent on the plat vacation of Lot 1 from the Northstar Subdivision (PL-16-03328).

Summary Recommendations

Staff recommends the Planning Commission conduct a public hearing and continue the hearing of the 1061 Lowell Avenue Subdivision, to January 11, 2016.

Description

Applicant: Illuminus Property Holdings represented by Jon Turkula,
Jaffa Group Architecture
Location: 1061 & 1063 Lowell Avenue
Lot 1, Northstar Subdivision
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: A subdivision plat requires Planning Commission review and City Council review and action

Summary of Proposal

The property owner is requesting to vacate Lot 1 of the Northstar Subdivision in order to create a new subdivision (1061 Lowell Avenue Subdivision), subdividing the existing lot into four (4) lots of record. The new proposed subdivision is concurrent and dependent on the plat vacation of Northstar under application PL-16-03328.

Planning Commission Staff Report



Application: PL-16-03293
Subject: Village at Empire Pass North Subdivision
Author: Kirsten Whetstone, AICP, Sr. Planner
Date: December 14, 2016
Type of Item: Legislative – subdivision plat

Summary Recommendations

Staff recommends the Planning Commission conducts a public hearing and continues this item to January 11, 2017, to allow additional time for Staff to provide a summary of Flagstaff Development Agreement obligations and development parameters.

Description

Applicant: Alliance Engineering (representing Owner)
Owner: REDUS Park City LLC
Location: Marsac Avenue and Village Way
Zoning: Residential Development (RD) District as part of the Flagstaff Annexation and Master Planned Development (MPD) and Village at Empire Pass MPD
Adjacent Land Uses: Deer Valley Resort, condominiums, townhouses, and vacant parcels of the Village at Empire Pass Pod A

Proposal

This is a request for a subdivision plat of three metes and bounds described parcels (PCA-S-98-BB, PCA-S-98-DD, and PCA-S-09-EE located to the north and east of the Village at Empire Pass Phase I Subdivision. The plat would create three platted lots of record for development parcels of the Village at Empire Pass Pod A Master Planned Development approved on July 28, 2004. The lots have frontage on existing platted Marsac Avenue (State Highway 224) and Village Way (a private street). No new public or private streets are proposed. Existing recorded and proposed utility, snow storage, storm water, ski lift, and access easements are shown on the plat.

The subdivision consists of a 3.0 acre Lot 1, for future townhouse units, a 1.57 acre Lot 2 for Lodge Building 4, and a 0.67 acre Lot 3 for future Lodge Building 3.

Six lodge buildings have been built to date within Pod A, namely Shooting Star, Silver Strike, Flagstaff Lodge (was Snowberry Lodge), Arrowleaf A and Arrowleaf B, and Grand Lodge. A seventh building, One Empire Pass is currently under construction. Additionally, Larkspur East and Larkspur West Townhouses (attached homes), Paintbrush and Belles PUD style homes, and six single family homes in Banner Wood are platted within Pod A. Three of the large lodge buildings (Buildings 1, 3, and 4) as well as townhouse units remain to be constructed within the Village MPD Pod A.

The subsequent Conditional Use Permits (CUPs) required by the VMPD for each multi-family parcel and/or building are intended to provide final architectural review by the Park City Planning Department Staff and Planning Commission and to demonstrate compliance with the Village MPD and Large Scale MPD.



	STAFF: MARSHALL AND MICHAEL DOMONOWICZ JESSE WOREND	DATE: 8/25/16
	FOR: REDUS PARK CITY LLC	
	JOB NO: 12-2-16	
	FILE: A:\Development\GIS\Map\North_Side\wpb\wpb.jpg	
AERIAL PHOTOGRAPH VILLAGE AT EMPIRE PASS NORTH SUBDIVISION		
SHEET 1 OF 1		

Planning Commission Staff Report



Application: PL-16-03338
Subject: B2 East Subdivision
Author: Kirsten Whetstone, MS, AICP, Senior Planner
Date: December 14, 2016
Type of Item: Legislative – Subdivision plat

Summary Recommendations

Staff recommends the Planning Commission conducts a public hearing and continues this item to January 11, 2017 to allow additional time for Staff to provide a summary of Flagstaff Development Agreement obligations and development parameters.

Description

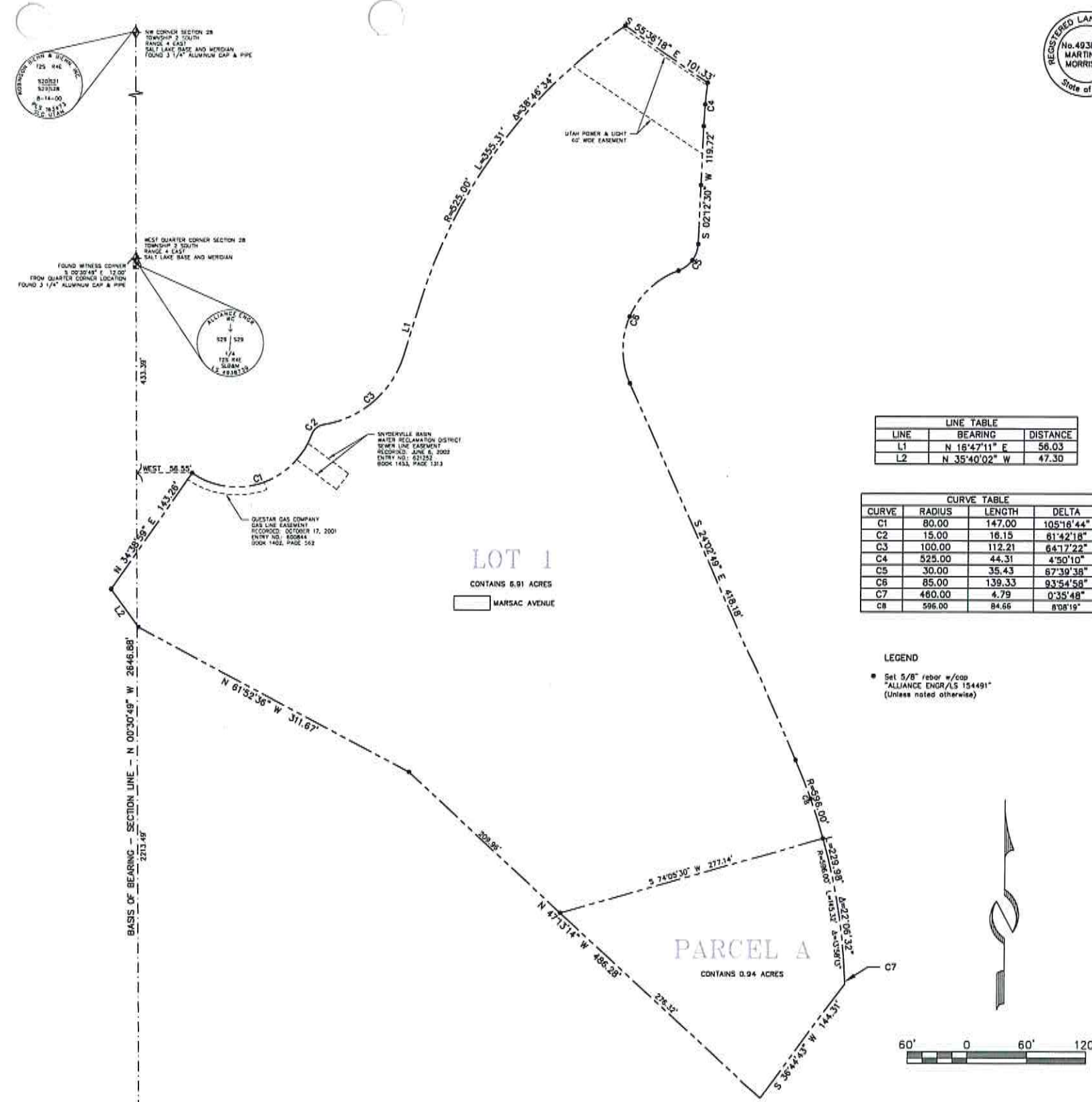
Owner: REDUS Park City LLC
Applicant Representative: Marshall King, Alliance Engineering
Location: 9300 Marsac Avenue within the Pod B2 Empire Pass Master Planned Development (MPD)
Zoning: Residential Development (RD-MPD) District, subject to the Pod B2 Empire Pass Master Planned Development
Adjacent Land Uses: Deer Valley Resort, open space, Montage Hotel and Residences

Proposal

This is a request to subdivide a 7.85 acre metes and bounds described parcel located within Pod B2 of the Empire Pass Pod B2 Master Planned Development approved by Planning Commission on March 14, 2007. The subdivision consists of a 6.91 acre Lot 1, for future development of 81 unit equivalents (UE) of residential condominiums, and a 0.94 acre Parcel A, for ski run/ski area related activities. Existing recorded and proposed utility, drainage, and access easements will be shown on the plat.

Parcel B-2 Empire Village Subdivision plat was recorded on May 23, 2007. The Staff report for Parcel B-2 Subdivision indicated that a future subdivision will encompass the proposed (81 UE) condominiums located to the east of the Empire Day Lodge. The current application requests approval of the B2 East Subdivision plat to create a lot of record for the 81 UE, in not more than 100 individual units, as identified by the Pod B-2 Master Planned Development and Subdivision.

The property has frontage on Marsac Avenue, a State Highway and utilities are available to Lot 1. Sewer service is not available for Parcel A due to current location of the main service line. SBWRD recommends conditions and plat notes to address their concerns. All existing and required easements will be recorded on the plat. No changes are proposed to existing streets.



SURVEYOR'S CERTIFICATE

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold Certificate No. 4938739, as prescribed by the laws of the State of Utah, and that by authority of the owners, this Record of Survey map of B2 EAST SUBDIVISION has been prepared under my direction and that the same has been or will be monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

BOUNDARY DESCRIPTIONS

A parcel of land located in the west half of Section 28 and the southeast quarter of Section 29, Township 2 South, Range 4 East, Salt Lake Base and Meridian.

Beginning at a point that is North 00°30'49" West 2213.49 feet along Section Line and East 56.55 feet from the southwest corner of Section 28, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point also being on the southerly line of the Marsac Avenue Right of Way, according to the official plat thereof on file and of record in the office of the Recorder, Summit County, Utah, and on a curve to the left having a radius of 80.00 feet, of which the radius point bears North 34°38'59" East; and running thence along the southerly line of the Marsac Avenue Right of Way the following five (5) courses: 1) easterly along the arc of said curve 147.00 feet through a central angle of 105°16'44" to a point on a reverse curve to the right having a radius of 15.00 feet, of which the radius point bears South 70°37'45" East; thence 2) northeasterly along the arc of said curve 18.15 feet through a central angle of 61°42'18" to a point on a curve to the left having a radius of 100.00 feet, of which the radius point bears North 08°55'27" West; thence 3) northeasterly along the arc of said curve 112.21 feet (chord bears North 48°55'52" East 106.41 feet) through a central angle of 64°17'22"; thence 4) North 16°47'11" East 56.03 feet to a point on a curve to the right having a radius of 525.00 feet, of which the radius point bears South 73°12'49" East; thence 5) northeasterly along the arc of said curve 355.31 feet through a central angle of 38°46'34"; thence South 55°36'18" East 101.33 feet to a point on a curve to the left having a radius of 525.00 feet; thence southerly along the arc of said curve 44.31 feet (chord bears South 04°37'35" West 44.30 feet) through a central angle of 4°50'10"; thence South 02°12'30" West 119.72 feet to a point on a curve to the right having a radius of 30.00 feet, of which the radius point bears North 87°47'30" West; thence southerly along the arc of said curve 35.43 feet through a central angle of 67°39'38" to a point of reverse curve to the left having a radius of 85.00 feet, of which the radius point bears South 20°07'52" East; thence southwesterly along the arc of said curve 139.33 feet through a central angle of 93°54'58"; thence South 24°02'49" East 418.18 feet to a point on a curve to the right having a radius of 596.00 feet, of which the radius point bears South 65°57'11" West; thence along the arc of said curve 229.98 feet through a central angle of 22°06'32" to a point of compound curve to the right having a radius of 460.00 feet, of which the radius point bears South 88°03'42" West; thence southerly along the arc of said curve 4.79 feet through a central angle of 00°35'48"; thence South 36°44'43" West 144.31 feet; thence North 47°13'14" West 486.28 feet; thence North 61°52'36" West 311.67 feet; thence North 35°40'02" West 47.30 feet; thence North 34°38'59" East 143.26 feet to the point of beginning.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 16°47'11" E	56.03
L2	N 35°40'02" W	47.30

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	80.00	147.00	105°16'44"
C2	15.00	18.15	61°42'18"
C3	100.00	112.21	64°17'22"
C4	525.00	44.31	4°50'10"
C5	30.00	35.43	67°39'38"
C6	85.00	139.33	93°54'58"
C7	460.00	4.79	0°35'48"
C8	596.00	84.66	8°08'19"

LEGEND

- Set 5/8" rebar w/cap
- "ALLIANCE ENGR/LS 154491"
- (Unless noted otherwise)

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that REDUS Park City LLC, the undersigned owner of the herein described tract of land, to be known hereafter as B2 EAST SUBDIVISION, does hereby certify that it has caused this Plat to be prepared, and does hereby consent to the recordation of this Plat.

In witness whereof, the undersigned set his hand this _____ day of _____, 2016.

REDUS Park City LLC, a Delaware limited liability company

By: REDUS Properties, Inc., a Delaware corporation
Its: manager

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

State of _____ ss:
County of _____
On this _____ day of _____, 2016, _____ personally appeared before me, the undersigned Notary Public, in and for said state and county. Having been duly sworn, _____ acknowledged to me that he is an authorized signatory of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

A Notary Public commissioned in _____
Printed Name _____
Residing in: _____
My commission expires: _____

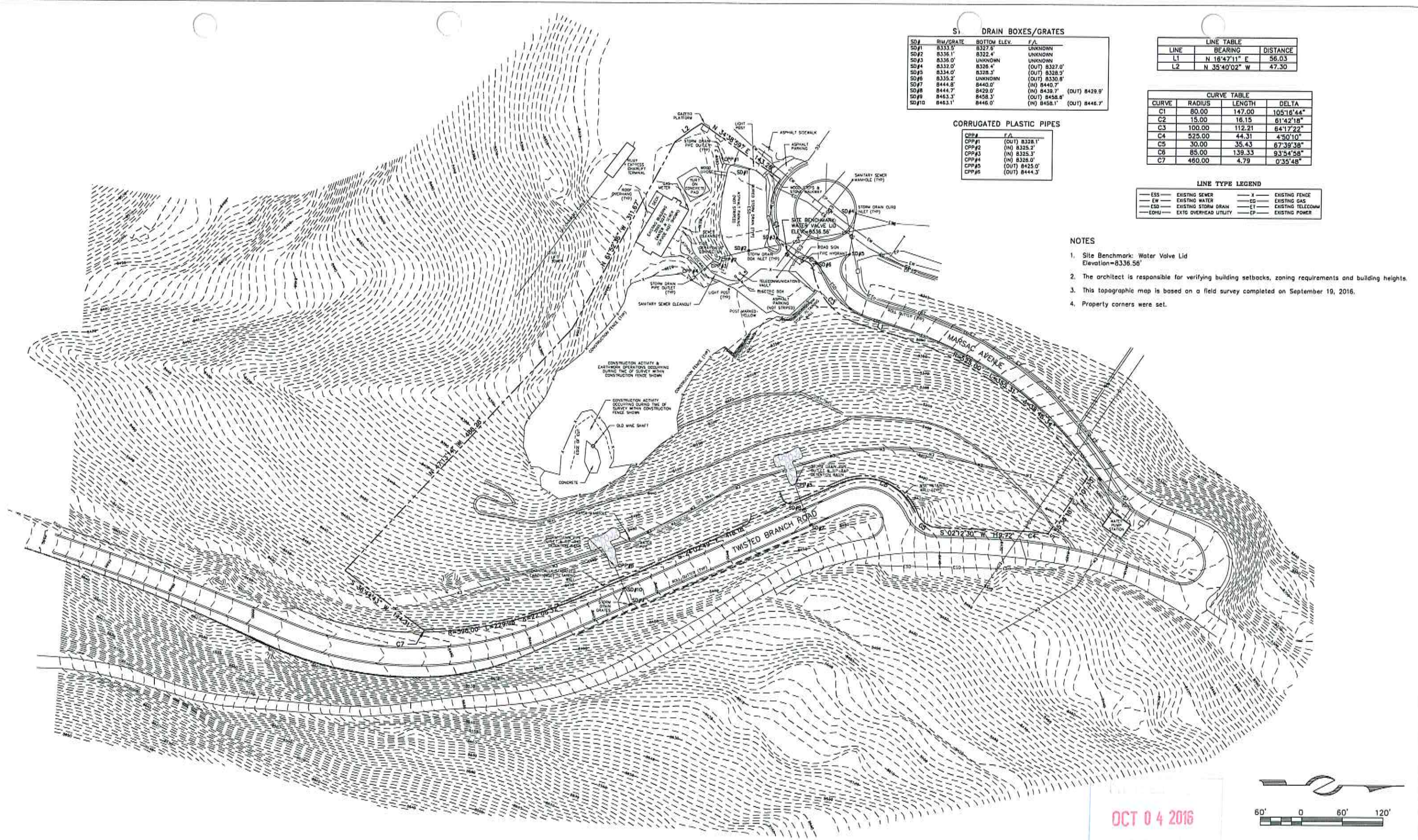
NOTE:

- This plat is subject to the Conditions of Approval in Ordinance 2016-_____
- ERU note: to be determined



B2 EAST SUBDIVISION
LOCATED IN THE WEST HALF OF SECTION 28 & THE SOUTHEAST QUARTER OF SECTION 29
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

 Planning Commission Packet December 14, 2016 323 Main Street P.O. Box 2064 Park City, Utah 84060-2064	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2017 BY _____ S.B.W.R.D.	PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2016 BY _____ CHAIR	ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2017 BY _____ PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS _____ DAY OF _____, 2017 BY _____ PARK CITY ATTORNEY	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____, 2017 BY _____ MAYOR	CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2017 BY _____ PARK CITY RECORDER	RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ ENTRY NO. _____ Page 59 FEE _____ RECORDER _____
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DRAIN BOXES/GRATES			
SD#	R/W/GRATE	BOTTOM ELEV.	F/A
SD#1	8333.5'	8327.8'	UNKNOWN
SD#2	8336.1'	8322.4'	UNKNOWN
SD#3	8336.0'	UNKNOWN	UNKNOWN
SD#4	8332.0'	8326.4'	(OUT) 8327.0'
SD#5	8334.0'	8328.3'	(OUT) 8328.3'
SD#6	8335.2'	UNKNOWN	(OUT) 8330.8'
SD#7	8444.8'	8440.0'	(IN) 8440.7'
SD#8	8444.7'	8429.0'	(IN) 8438.7' (OUT) 8429.9'
SD#9	8463.3'	8458.3'	(OUT) 8458.8'
SD#10	8463.1'	8446.0'	(IN) 8458.1' (OUT) 8446.7'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 16°47'11" E	56.03
L2	N 35°40'02" W	47.30

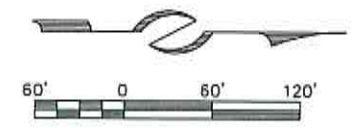
CORRUGATED PLASTIC PIPES	
CPP#	F/A
CPP#1	(OUT) 8328.1'
CPP#2	(IN) 8325.2'
CPP#3	(IN) 8325.3'
CPP#4	(IN) 8328.0'
CPP#5	(OUT) 8425.0'
CPP#6	(OUT) 8444.3'

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	80.00	147.00	105°16'44"
C2	15.00	16.15	61°42'18"
C3	100.00	112.21	84°17'22"
C4	525.00	44.31	4°50'10"
C5	30.00	35.43	67°39'38"
C6	85.00	139.33	93°54'58"
C7	460.00	4.79	0°35'48"

LINE TYPE LEGEND			
ESS	EXISTING SEWER	X	EXISTING FENCE
EW	EXISTING WATER	EG	EXISTING GAS
ESD	EXISTING STORM DRAIN	ET	EXISTING TELECOMM
EOHU	EXTG OVERHEAD UTILITY	EP	EXISTING POWER

- NOTES
1. Site Benchmark: Water Valve Lid
Elevation=8336.56'
 2. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
 3. This topographic map is based on a field survey completed on September 19, 2016.
 4. Property corners were set.

OCT 04 2016



Alliance Engineering Inc.
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664
(435) 849-9487

STAFF:
MICHAEL DEMKOWICZ
MARTY MORRISON
MARSHALL KING
JESSE MORENO
DATE: 10/3/16

EXISTING CONDITIONS & TOPOGRAPHIC MAP
B2 EAST PARCEL
SECTION 28, T2S, R4E
FOR: REDUS PARK CITY LLC
JOB NO.: 12-2-16
FILE: X:\Empire\dwg\srvt\topo2016\120216-B2 East.dwg

SHEET
1
OF
1
Page 60



SUBJECT
PROPERTY

OCT 8 4 2016

100' 0 100' 200'

Planning Commission Staff Report



PLANNING DEPARTMENT

Subject: Treasure
Project #: PL-08-00370
Author: Francisco J. Astorga, AICP, Senior Planner
Date: 14 December 2016
Type of Item: Administrative – Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission review Conditional Use Permit (CUP) criteria no. 8, 11, and 15 as presented in staff report. Staff recommends that the Planning Commission provide input and direction. Staff recommends that the Planning Commission conduct a public hearing and continue it to the January 11, 2016 Planning Commission meeting.

Description

Property Owner: Sweeney Land Company and Park City II, LLC represented by Patrick Sweeney
Location: Creole Gulch and Mid-station Sites
Sweeney Properties Master Plan
Zoning: Estate District –Master Planned Development
Adjacent Land Use: Ski resort area and residential
Topic of Discussion: CUP Criteria 8, 11, & 15
Reason for Review: Conditional Use Permits are required for development per the Sweeney Properties Master Plan. Conditional Use Permits are reviewed by the Park City Planning Commission.

Background

The Planning Commission reviewed this application during the November 11, 2016 Planning Commission meeting. During the last meeting the applicant presented a Sketch-up model of the project in order to show different views and answered questions made by the Planning Commission. The Planning Commission conducted a work session discussion with the applicant, provided questions/comments regarding the proposed project, conducted a public hearing and continued it to this meeting.

The Planning Department and Planning Commission must review each of the CUP criteria when considering whether or not the proposed conditional use mitigates impacts. The purpose/focus of this staff report is to provide the Planning Commission relevant information regarding the review of the criteria related to mass, bulk, scale, physical compatibility, excavation, etc., as listed below:

8. building mass, bulk, and orientation, and the location of buildings on the site; including orientation to buildings on adjoining lots;

11. physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing;

15. within and adjoining the site impacts on environmentally sensitive lands, slope retention, and appropriateness of the proposed structure to the topography of the site.

Applicant's Update

During this last review period, the applicant submitted two (2) sets of screen shots as presented during the November 9, 2016 Planning Commission meeting. One set consists of the massing of the 2008/2009 updated Conditional Use Permit in orange while the other set consist of the 1985 MPD study, the Woodruff 3d rendering in red. Staff was able to place each one of these shots side by side for comparison purposes. See Exhibit V - SketchUp Comparisons CUP (2009) & MPD Study (1985).

Based on correspondence received, the applicant will be ready to present on the following topics during this meeting:

- Review of the physical model of the project
- SketchUp presentation
- Discussion of efficiency issues
- Discussion of project design and grading matters

The only updated exhibit by the time of preparation of this staff report was Exhibit V - SketchUp Comparisons CUP (2009) & MPD Study (1985). No other documents have been presented in time for staff to review and comment in preparation for this December 2016 meeting.

Analysis

Many concerns were raised and issues identified through the Master Plan review process. It was identified that a project of this scale and complexity would pose similar and considerable consternation no matter where it was proposed to be built. The Master Planned Development procedure dealt with the general concept of the proposed development and deferred/relegated the very detailed project review elements to the conditional use stage of review. At conditional use review, the following Major Issues (Sweeney Properties Master Plan Section VI) related to mass, bulk, scale, physical compatibility are to be examined in considerable detail:

Scale - The overall scale and massiveness of the project has been of primary concern. Located within the Historic District, it is important for project designed to be compatible with the scale already established. The cluster concept for development of the hillside area, while minimizing the impacts in other areas, does result in additional scale considerations. The focus or thrust of the review process has been to examine different ways of accommodating the development of the property while being mindful of and sensitive to the surrounding

neighborhood. The relocation of density from the Town Lift site was partly in response to this issue. The concentration of density into the Creole Gulch area, which because of its topography and the substantial mountain backdrop which helps alleviate some of the concern, and the requested height variation necessary in order to reduce the mass perceived (higher versus lower and wider), have greatly improved the overall scale of the cluster approach. The sites along Park Avenue have been conceptually planned to minimize scale and have provided stepped facades and smaller-scale buildings to serve as a transition.

The scale and massiveness of the proposal is still a primary concern. During the November 9, 2016 Planning Commission meeting the Commission showed concern regarding the compatibility with the scale already established as they asked for a comparison of the proposal and the adjacent neighborhoods. Staff recognizes the challenges of the approved cluster concept on the hillside area adjacent to the Old Town. During the November 2016 meeting, the applicant indicated that, if the Planning Commission required, they would be willing to provide a feel for the buildings (proposal) on the context of the neighborhood; however, the applicant noted that would take a couple of months or more to complete.

Discussion requested. Does the Planning Commission find it necessary to have the applicant provide a contextual neighborhood analysis in order to address special considerations identified in the Scale section of the Major Issues of the Master Plan? The applicant indicated that they would be submitting the physical model of the project. By the preparation of this staff report, such review has not yet been presented to Staff; therefore, staff is unable to comment on this until sufficient time is obtained by staff to review what the applicant will present.

Neighborhood Compatibility - In reviewing the general compatibility of a project of this scale, an evaluation of possible alternative approaches was undertaken. In light of those other development concepts and associated impacts, the proposed clustering approach was deemed the most compatible. Rather than spread the density out and thereby impact the entire old town area, the cluster concept afforded the ability to limit the impacts to smaller areas. Efforts to minimize scale have been directed toward this issue as have the solutions to other problems related to traffic, site disturbance, and the preservation of open space. The non-hillside project sites have also been planned in accordance with both the Historic District guidelines and in keeping with the scale of existing residences. The long build-out period envisioned will also enable a more detailed review at the time when specific project proposals are developed. A number of the staff's recommended conditions are directed toward minimizing the potential conflicts related to neighborhood compatibility considerations.

The clustering approach of the Master Plan was deemed the most compatible. It is critical for the proposal to be in compliance with the Design Guidelines (1983) and in keeping the scale of existing residences. A number of conditions of approval were directed towards minimizing potential conflicts related to neighborhood compatibility as

the applicant's proposal has a significant amount of excavation which makes the project comply with the above-sea-level elevation restriction mentioned in the Master Plan for the two sites; however, the original MPD did not anticipate that the massive excavation would take place back in the 1980's. The Woodruff 3D diagram introduced by the applicant in June 2016 was derived by the site plan and the building sections. The site plan and the building sections were part of clause *"the following plans and exhibits, in addition to this report and the project file, constitute the complete development permit"* indicated on the first page of the Master Plan. When the Planning Commission and City Council approved the Master Plan in 1985/1986 they only had what was shown to them, which did not include the massive excavation which creates building façades exceeding what they reviewed. Furthermore, the Master Plan did not show any signs of the proposed building concept of double fronted buildings from the front and the back as the sample elevations, also include on the complete development permit, returned final (finished) grade back to existing (natural) grade.

Visibility - The issue of visibility is one which varies with the different concepts proposed and vantage or view points selected. The very detailed visual analyses prepared graphically demonstrated how the various proposals might look from key points around town. The cluster approach' although highly visible from certain areas, does not impose massive structures in the most prominent areas. Instead, the tallest buildings have been tucked into Creole Gulch where topography combines with the densely vegetated mountainside to effectively reduce the buildings' visibility. The height and reduction in density at the Mid-Station site has been partly in response to this concern. The staff has included a condition that an exhibit be attached to the Master Plan approval that further defines building envelope limitations and architectural considerations.

Detailed visual analyses were prepared during Master Plan review. Even though it was recognized that the proposal would be highly visible from certain areas, it was not to impose massive structures in the most prominent areas. The Planning Commission has recognized several areas of concern, mainly as a result of the excavation. These areas of concern include the visual massing of buildings 3B and 5A due to the visible location of these buildings from Main Street and Heber Avenue as well as driving up Empire and Lowell Avenue and the entry along the Empire and Lowell Avenue switchback at building 4A as there is a dramatic contrast between the project's streetscape and the adjacent residential streetscape.

Grading - The proposed cluster concept will result in less grading than the alternatives considered. The MPD review enabled the staff, Planning Commission, and developer the opportunity to consider this kind of concern early in the project design process. The concept plans developed have examined the level of site work required and how potential impacts can be mitigated. Various conditions supported by staff have been suggested in order to verify the efforts to be taken to minimize the amount of grading necessary and correlated issues identified.

The Master Plan indicates that less grading was considered in the selection of the clustering concept as it was identified early in the process and as it was reflected in the Woodward drawings. This section further indicated that the concept plan (Master Plan) examined the level of site work required and how impacts can be mitigated. The section identifies that that efforts are to be taken to minimize the amount of grading. The current proposal does the exact opposite of minimizing the amount of grading necessary as depicted in the concept showing the massive amount of excavation towards the rear of the project.

Disturbance - The eight distinct development scenarios presented each had a varying degree of associated site disturbance. The current concept results in considerably less site clearing and grading than any of the others presented (except the total high-rise approach). A balance between site disturbance and scale/visibility has been attained through the course of reviewing alternate concepts. General development parameters have been proposed for Master Plan approval with the detailed definition of "limits of disturbance" deferred until conditional use review.

The selected scenario has the less amount of site clearing and grading than the ones not selected. The last sentence of the text above indicated that the limits of disturbance would be deferred to the condition use review. The 2004 Land Management Code defines "limits of disturbance" and Construction Activity as the following:

15-15-1.127. **Limits of Disturbance.** The designated Area in which all Construction Activity must be contained.

15-15-1 .56. **Construction Activity.** All Grading, excavation, construction, Grubbing, mining, or other Development Activity which disturbs or changes the natural vegetation, Grade, or any existing Structure, or the act of adding an addition to an existing Structure, or the erection of a new principal or Accessory Structure on a Lot or Property.

[15-15-1.71. **Development.** The act, process, or result of erecting, placing, constructing, remodeling, converting, altering, relocating, or Demolishing any Structure or improvement to Property including Grading, clearing, Grubbing, mining, excavating, or filling of such Property. Includes Construction Activity.

15-15-1.214. **Structure.** Anything constructed, the Use of which requires a fixed location on or in the ground, or attached to something having a fixed location on the ground and which imposes an impervious material on or above the ground; definition includes "Building".]

Section V Narrative of the Master Plan/Hillside Properties section indicates that "As part of the Master Plan, the land not included within the development area boundary will be rezoned to Recreation Open Space (ROS)." Staff finds that there are significant cliffscapes/retaining walls outside of the line identified on Sheet 22, again same clause

applies: *“the following plans and exhibits, in addition to this report and the project file, constitute the complete development permit”*, identified as the **building area boundary**, which also matches the ROS zoned areas.

Discussion Requested: Does the Planning Commission agree that the development which includes the cliffscapes/retaining walls need to take place with the building area boundary, and not outside of this defined area?

Environmental Concerns

The applicant has submitted the following documents with their Conditional Use Permit application to address environmental concerns:

1. [Exhibit L – Soils Capacity Letters \(Appendix A-5\)](#). This document consists of the following documents:
 - 1977 Soils Investigation prepared by Rollins, Brown and Gunnell
 - 1979 Preliminary Engineering Geologic Report prepared by William Lund
 - 1994 Engineering Geology Reconnaissance Report prepared SHB AGRA
 - 2003 Geotechnical/Geological Consultation Letter prepared by AGECE
2. [Exhibit M – Mine Waste Mitigation Plan \(Appendix A-6\)](#). The applicant submitted correspondence between the City's 2005 Environmental Coordinator and the applicant's Civil Engineer. These letters included the following attachments:
 - February 4, 2005 Letter from Mr. Jeff Schoenbacher, Environmental Coordinator
 - December 15, 2005 Letter from Mr. Jeff Schoenbacher, Environmental Coordinator Letter with attachment
 - January 27, 2006 Letter from Mr. Rob McMahon P.E., Alliance Engineering, Inc.

The applicant explains in the Mine Waste Mitigation Plan narrative that they plan to keep on site the mineralized mine waste identified in the various adit sites. Some adit sites and other areas are to be treated in place with a mineral stabilizing additive to prevent metal leaching, covered with topsoil held in place with a geo-grid, and hydro-seeded with a native grasses and flowers seed mixture acceptable to PCMC. Another adit site is to remain in the development area and placed in a sealed liner and covered with a concrete cap or at least 10 feet of clean fill material.

The City is currently reviewing the submitted documents, letters, reports, and will provide to the Planning Department an up-to-date recommendation in the future.

3. [Exhibit R – LEED \(Appendix A-14\)](#). This document prepared by the applicant, simply indicates the applicant's desire to utilize the LEED ND rating system that integrates the principles of smart growth, new urbanism, and green building. Additional information can be found at www.usgbc.org/leed/nd.

4. [Exhibit T – Excavation Management Plan \(Appendix A-16\)](#), document prepared by Alta Engineering, Rob McMahon, PE. The overall concept of the excavation operations is to manage all excavated materials on site as three (3) zones have been identified by the applicant to accept some of the estimated excess excavated material that is to be generated by the proposed construction. As written in the plan, the fill placement zones should be chosen carefully to minimize impacts on existing vegetation, preserve important vistas, to improve and enhance ski run grades, etc.

The City is currently reviewing the submitted plan and will provide to the Planning Department an up-to-date recommendation regarding their excavation management proposal.

The Planning Department recognized the following:

- The proposed design requires a very large excavation and re-grading of the entire site. The project is located on the mountain side on steep topography. The impacts to the slope and existing topography are substantial and unmitigated. The project as designed will create a very large hole on the site. The project does not step with the natural topography of the site as shown on the Master Plan. As discussed previously, staff finds the project as designed is not in compliance with the concept approved by the City Council during the 1986 Master Plan approval.
- The excavation management plan estimates a total of 960,000 cubic yards of excavation to be relocated from the site. The plan includes moving excavated material up the mountain on a conveyor system to re-grade portions of the ski runs. The submitted plan identifies specific locations for only 415,000 cubic yards. The remaining 625,000 cubic yards are outlined in the plan but not detailed in for the volumes in any one location. No grading plan has been submitted for any of the locations. Staff is not able to determine the depth of filling in any one location and its effects on drainage, mitigating factors, etc. The proposed primary and secondary zones are all on ski runs and other slopes that contains grades that are 25% and greater. One of the secondary zones removes all of the vegetation and places fill (unknown depth) just below the Treasure Hollow and Creole Gulch ski run intersection at the top of the Sweeney Property, zoned ROS, with no areas of designated ski runs.
- The excavation management plan includes the areas on the mountain which will be re-graded. This methodology may create less construction traffic on the adjacent streets. The overall impact of excavating 960,000 cubic yards of existing earth will be a great impact to the site and the existing topography. Staff has not yet seen an analysis of the drainage and soil stability, once the excavated material is placed on site.
- There is significant mine waste on the development site. In 2009 the Park City Environmental Coordinator indicated that he was not in agreement with the applicant's environmental proposal. The development is within the Spiro Drinking Water protection zone. All contaminated materials must be handled to meet local, state, and federal regulations. The letters written between the City's Environmental Coordinator and the applicant were attached as an exhibit on the

September 23, 2009 staff report. The specifics of a proposed plan have not been submitted.

Future Review

Staff recommends that the Planning Commission start familiarizing themselves, if they have not done so yet, with the traffic/transportation documents prepared by the applicant and the City for future review in order to begin addressing Conditional Use Permit criteria (2) traffic considerations including capacity of the existing Streets in the Area, (5) location and amount of off-Street parking, and (6) internal vehicular and pedestrian circulation system. Staff would like to start addressing these items soon; however, staff will respect the Planning Commission's comments provided in June 2016 regarding scheduling as they indicated that the schedule presented then was too ambitious and they would go through the process slowly and methodically. See available documents below currently on the City's website.

- [1st Addendum to Traffic Impact Analysis, PEC \(March 2005\)](#)
- [2nd Addendum to Traffic Impact Analysis, PEC \(April 6, 2005\)](#)
- [3rd Addendum to Traffic Impact Analysis, PEC \(January 7, 2008\)](#)
- [4th Addendum, PEC \(April 2, 2009\)](#)
- [5th Addendum, PEC \(June 18, 2005\) \(parking generation study\)](#)
- [6th Addendum, PEC \(June 25, 2009\)](#)
- [Early \(2008\) Opinion Summary](#)
- [Lowell Ave. Improvements Opinion Summary, Alta Engineering \(April 2, 2009\)](#)
- [Parking Counts, Alta Engineering \(April 15, 2009\)](#)
- [Proposed Parking and Traffic Operations \(July 16, 2009\)](#)
- [Revised Letter, Walkability Study Recommended Improvements and Effects on Traffic of Proposed Roadway Section on Empire Ave. \(June 18, 2009\)](#)
- [Traffic Impact Analysis, PEC \(July 2004\)](#)
- [Treasurer Hill Traffic Review, Fehr & Peers \(July 20, 2005\) \(funded by Park City\)](#)
- [Updated Traffic Review, Fehr & Peers \(December 2005\)](#)
- [Walkability Study Recommended Improvements, PEC \(March 31, 2009\)](#)

Notice

The property was posted and notice was mailed to property owners within 300 feet on May 11, 2016 for the initial 2016 meeting held on June 8, 2106. Legal notice was published in the Park Record according to requirements of the Land Management Code prior to every meeting.

Public Input

Public input has been received by the time of this report. See the following [website](#) with public input received as of April 2016. All public comments are forwarded to the Planning Commission via the staff report link above and kept on file at the Planning Office. Planning Staff will not typically respond directly to the public comments, but may choose to address substantive review issues in subsequent staff reports. There are four (4) methods for public input to the Planning Commission:

- Attending the Planning Commission meetings and giving comments in the public hearing portion of the meeting.
- Preparing comments in an e-mail to treasure.comments@parkcity.org.
- Visiting the Planning office and filling out a Treasure CUP project Comment Card.
- Preparing a letter and mailing/delivering it to the Planning Office.

Summary Recommendations

Staff recommends that the Planning Commission review Conditional Use Permit (CUP) criteria no. 8, 11, and 15 as presented in staff report. Staff recommends that the Planning Commission provide input and direction. Staff recommends that the Planning Commission conduct a public hearing and continue it to the January 11, 2016 Planning Commission meeting.

Exhibits/Links

[Exhibit A - Public Comments](#)

[Exhibit B - Approved Sweeney Properties Master Plan \(Narrative\)](#)

[Exhibit C - Approved MPD Plans](#)

[Exhibit D - Proposed Plans – Visualization Drawings1](#)

Sheet BP-01 The Big Picture
 Sheet V-1 Illustrative Plan
 Sheet V-2 Illustrative Pool Plaza Plan
 Sheet V-3 Upper Area 5 Pathways
 Sheet V-4 Plaza and Street Entry Plan
 Sheet V-5 Building 4b Cliffscape Area
 Sheet V-6 Exterior Circulation Plan
 Sheet V-7 Parking and Emergency Vehicular Access
 Sheet V-8 Internal Emergency Access Plan
 Sheet V-9 Internal Service Circulation
 Sheet V-10 Site Amenities Plan
 Sheet V-11 Usable Open Space with Development Parcels
 Sheet V-12 Separation-Fencing, Screening & Landscaping
 Sheet V-13 Noise Mitigation Diagrams
 Sheet V-14 Signage & Lighting
 Sheet V-15 Contextual Site Sections - Sheet 1
 Sheet V-16 Contextual Site Sections - Sheet 2

[Exhibit E - Proposed Plans – Visualization Drawings2](#)

Sheet V-17 Cliffscales
 Sheet V-18 Retaining Systems
 Sheet V-19 Selected Views of 3D Model - 1
 Sheet V-20 Selected Views of 3D Model – 2
 Sheet V-21 Viewpoints Index
 Sheet V-22 Camera Viewpoints 1 & 2
 Sheet V-23 Camera Viewpoints 3 & 4
 Sheet V-24 Camera Viewpoints 5 & 6

Sheet V-25 Camera Viewpoints 7 & 8
Sheet V-26 Camera Viewpoints 9 & 10
Sheet V-27 Camera Viewpoint 11
Sheet V-28 Illustrative Plan – Setback

Exhibit F - Proposed Plans – Architectural/Engineering Drawings 1a

Sheet VM-1 Vicinity & Proposed Ski Run Map
Sheet EC.1 Existing Conditions
Sheet SP.1 Site & Circulation Plan Sheet GP.1 Grading Plan
Sheet HL.1 Height Limits Plan
Sheet HL.2 Roof Heights Relative to Existing Grade
Sheet FD.1 Fire Department Access Plan

Exhibit G - Proposed Plans – Architectural/Engineering Drawings 1b

Sheet P.1 Level 1 Use Plan
Sheet P.2 Level 2 Use Plan
Sheet P.3 Level 3 Use Plan
Sheet P.4 Level 4 Use Plan
Sheet P.5 Level 5 Use Plan
Sheet P.6 Level 6 Use Plan
Sheet P.7 Level 7 Use Plan
Sheet P.8 Level 8 Use Plan
Sheet P.9 Level 9 Use Plan
Sheet P.10 Level 10 Use Plan
Sheet P.11 Level 11 Use Plan
Sheet P.12 Level 12 Use Plan
Sheet P.13 Level 13 Use Plan
Sheet P.14 Level 14 Use Plan
Sheet P.15 Level 15 Use Plan
Sheet P.16 Area, Unit Equivalent & Parking Calculations

Exhibit H – Proposed Plans – Architectural/Engineering Drawings 2

Sheet E.1AC2.1 Buildings 1A, 1C& 2 Exterior Elevations
Sheet E.1B.1 Building 1B Exterior Elevations
Sheet E.3A.1 Building & Parking Garage Exterior Elevations
Sheet E.3BC.1 Building 3BC Exterior Elevations
Sheet E.3BC.2 Building 3BC Exterior Elevations
Sheet E.3BC.3 Building 3BC Exterior Elevations
Sheet E.4A.1 Building 4A Exterior Elevations
Sheet E.4A.2 Building 4A Exterior Elevations
Sheet E.4B.1 Building 4B Exterior Elevations
Sheet E.4B.2 Building 4B Exterior Elevations
Sheet E.4B.3 Building 4B Exterior Elevations
Sheet E.4B.4 Building 4B Exterior Elevations
Sheet E.5A.1 Building 5A Exterior Elevations
Sheet E.5B.1 Building 5B Exterior Elevations

Sheet E.5C.1	Building 5C Exterior Elevations
Sheet E.5C.2	Building 5C Exterior Elevations
Sheet E.5D.1	Building 5D Exterior Elevations
Sheet S.1	Cross Section
Sheet S.2	Cross Section
Sheet S.3	Cross Section
Sheet S.4	Cross Section
Sheet S.5	Cross Section
Sheet S.6	Cross Section
Sheet S.7	Cross Section
Sheet S.8	Cross Section
Sheet S.9	Cross Section
Sheet UP.1	Concept Utility Plan

Exhibit I – Applicant’s Written & Pictorial Explanation

I.	Overview	VII.	Lift Improvement
II.	Master Plan History	VIII.	Construction Phasing
III.	Site plans	IX.	Off Site Amenities
IV.	Special Features	X.	Material Board
V.	Landscape	XI.	Submittal Document Index
VI.	Management		

Exhibit J – Fire Protection Plan (Appendix A-2)

Exhibit K – Utility Capacity Letters (Appendix A-4)

Exhibit L – Soils Capacity Letters (Appendix A-5)

Exhibit M – Mine Waste Mitigation Plan (Appendix A-6)

Exhibit N – Employee Housing Contribution (Appendix A-7)

Exhibit O – Proposed Finish Materials (Appendix A-9)

Exhibit P – Economic Impact Analysis (Appendix A-10)

Exhibit Q – Signage & Lighting (appendix A-13)

Exhibit R – LEED (Appendix A-14) Exhibit S – Worklist (Appendix A-15)

Exhibit S – Excavation Management Plan (Appendix A-16)

Exhibit T – Project Mitigators (Appendix A-18)

Exhibit U – Outside The Box (Appendix A-20)

Updated Exhibit V – SketchUp Comparison of CUP (2009) & MPD Study (1985)

Exhibit W – Applicant’s Position Paper December 2016

November 9, 2016 Staff Report Exhibits

Exhibit W – Applicant’s Draft Presentation

Exhibit X – Building Sections with Measurements

Exhibit Y – SPMP Building Sections (Sheet 18) with Measurements

Exhibit Z – SPMP Midstation Samples Elevations (Sheet 23) w Measurements

Exhibit AA – SPMP Creole Samples Elevations (Sheet 24) w Measurements

Exhibit BB – Treasure Presentation Cliffscapes

Exhibit CC – Applicant’s Computer Renderings (from applicant’s website)

Exhibit DD – Applicant’s Photo Composites (from applicant’s website)

Exhibit EE – Applicant's Visualizations Sheets V-21 – V-27

Exhibit FF – SPMP Site Plan (Sheet 17) Exhibit GG – Proposed Site Plan

Exhibit HH – SPMP Development Requirements & Restrictions (Sheet 22) - Height

[November 9, 2006 Planning Commission Minutes](#)

Additional Exhibits/Links

[2009.04.22 Jody Burnett MPD Vesting Letter](#)

[Staff Reports and Minutes 2016](#)

[Staff Reports and Minutes 2009-2010](#)

[Staff Reports and Minutes 2006](#)

[Staff Reports and Minutes 2005](#)

[Staff Reports and Minutes 2004](#)

[2004 LMC 50th Edition](#)

[1997 General Plan](#)

[1986.10.16 City Council Minutes](#)

[1985.12.18 Planning Commission Minutes](#)

[1986 Comprehensive Plan](#)

[1985 Minutes](#)

[1985 LMC 3rd Edition](#)

Updated Exhibit [1983 Park City Historic District Design Guidelines](#)

[Parking, Traffic Reports and Documents](#)

MPD Amendments:

[October 14, 1987 - Woodside \(ski\) Trail](#)

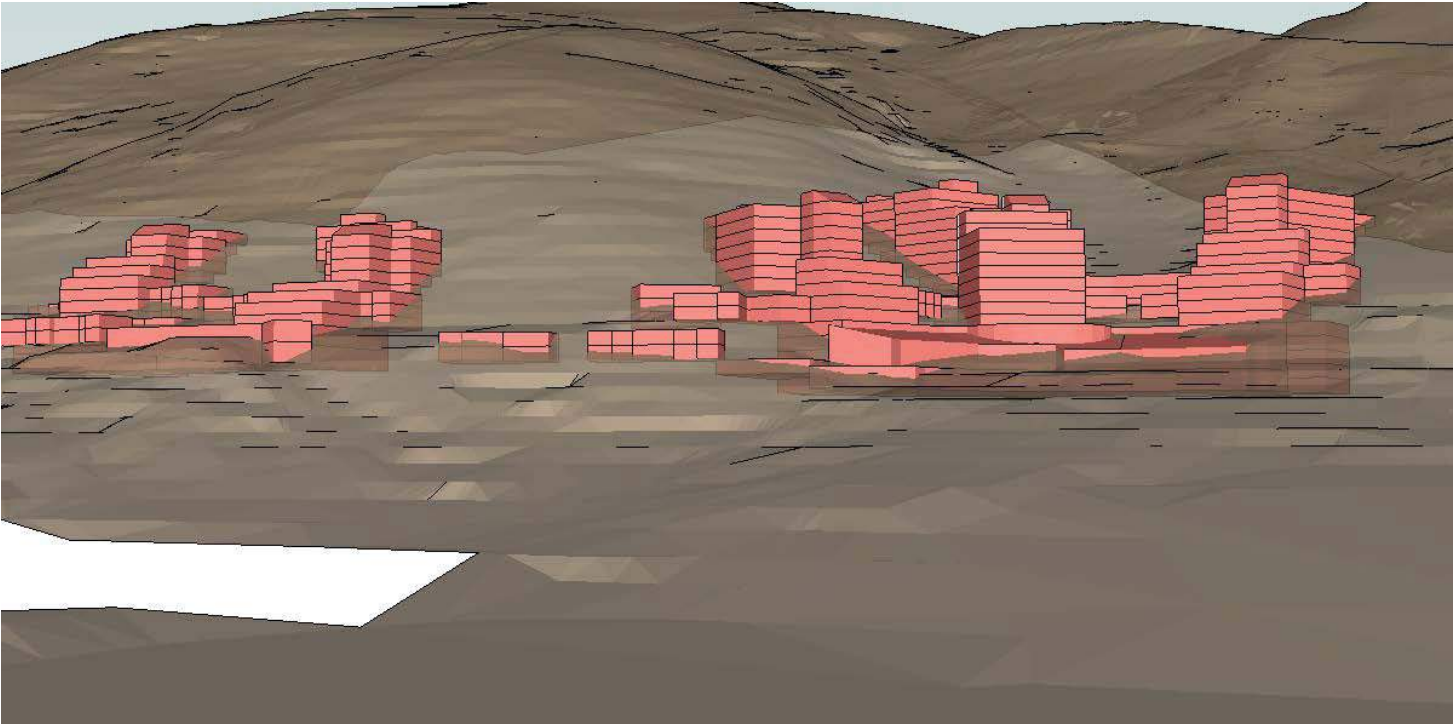
[December 30, 1992 - Town Lift Base](#)

[November 7, 1996 – Town Bridge](#)

9th

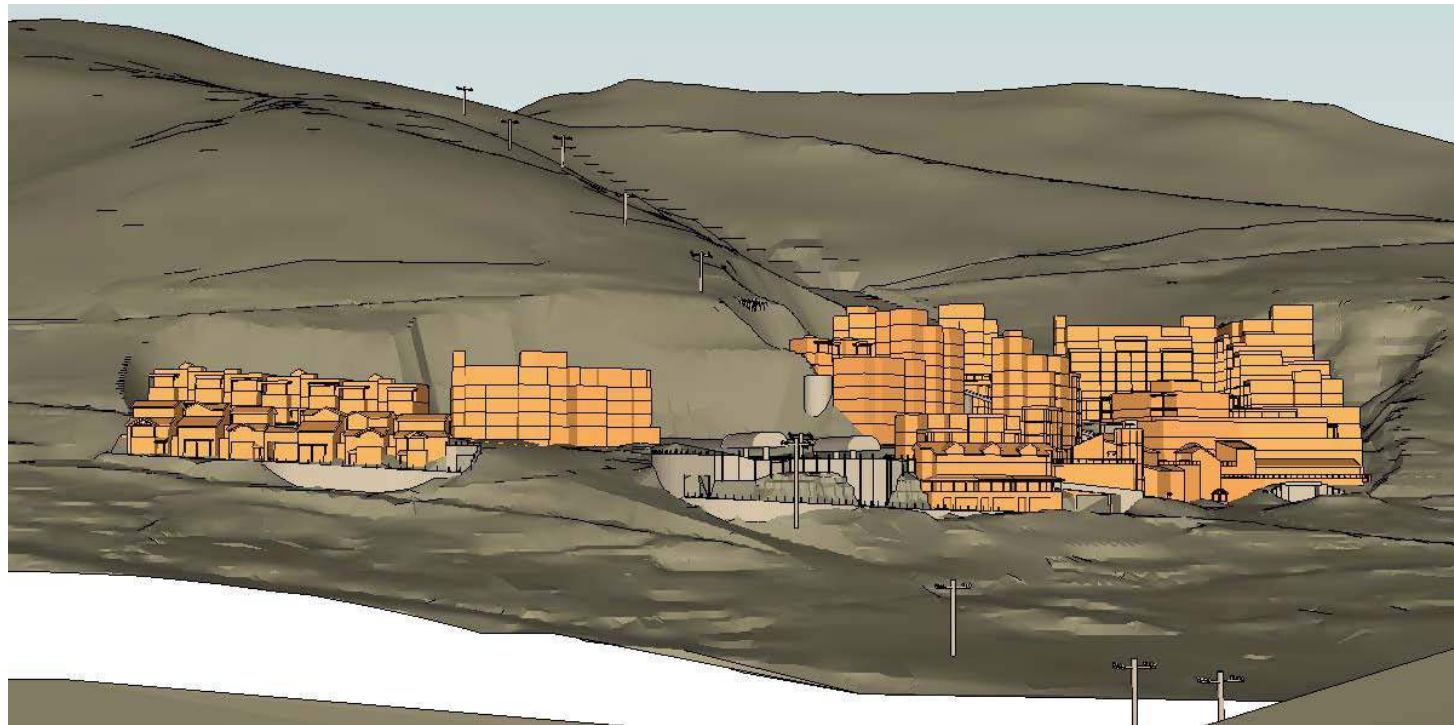


CUP (2009)

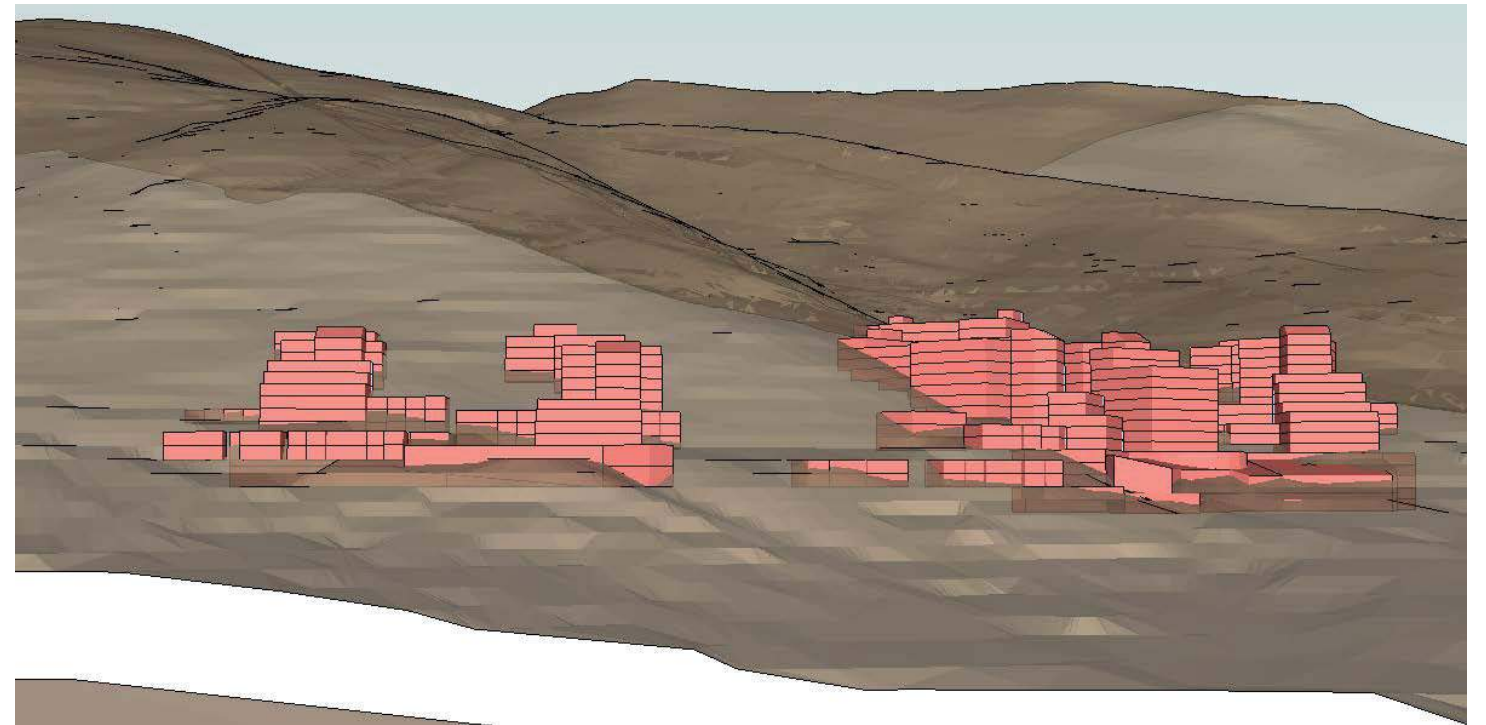


MPD Study (1985)

Above Transit



CUP (2009)

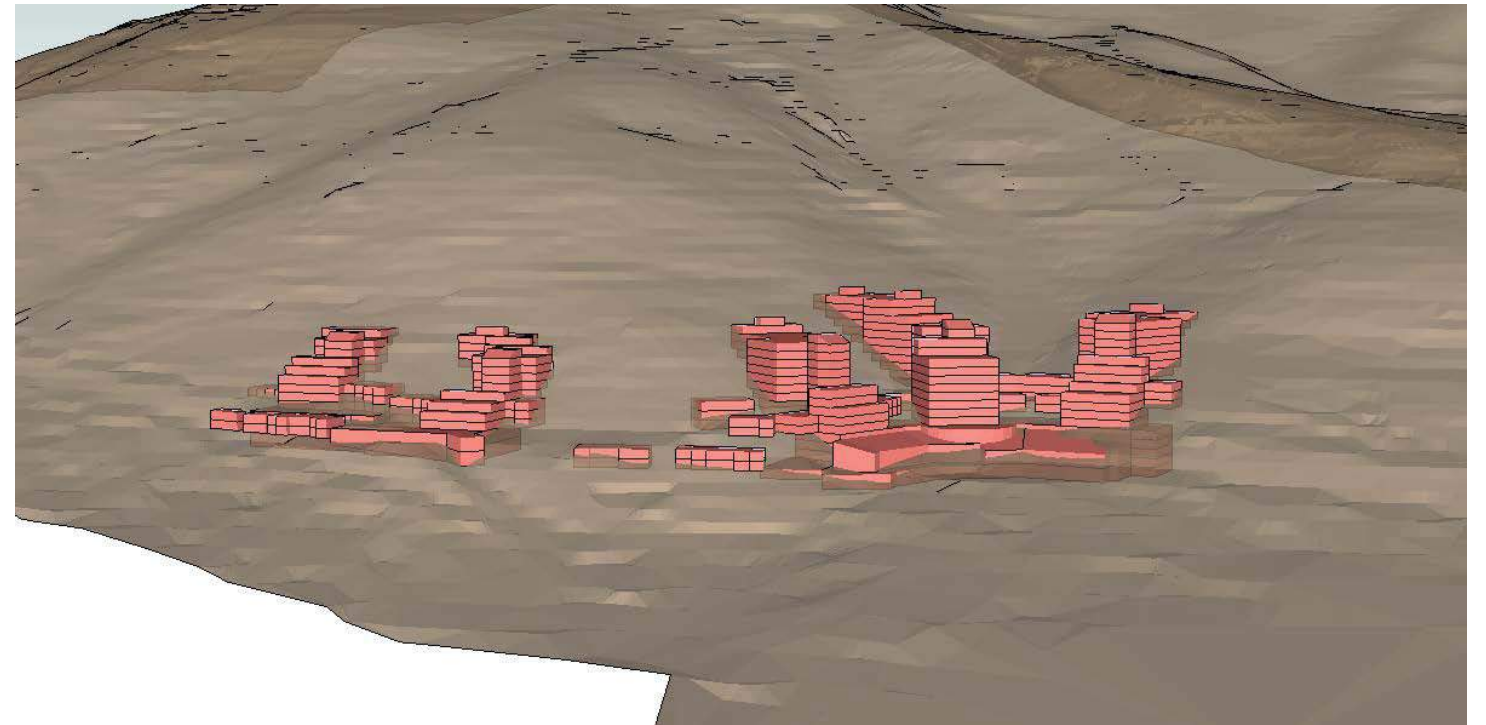


MPD Study (1985)

Aerie

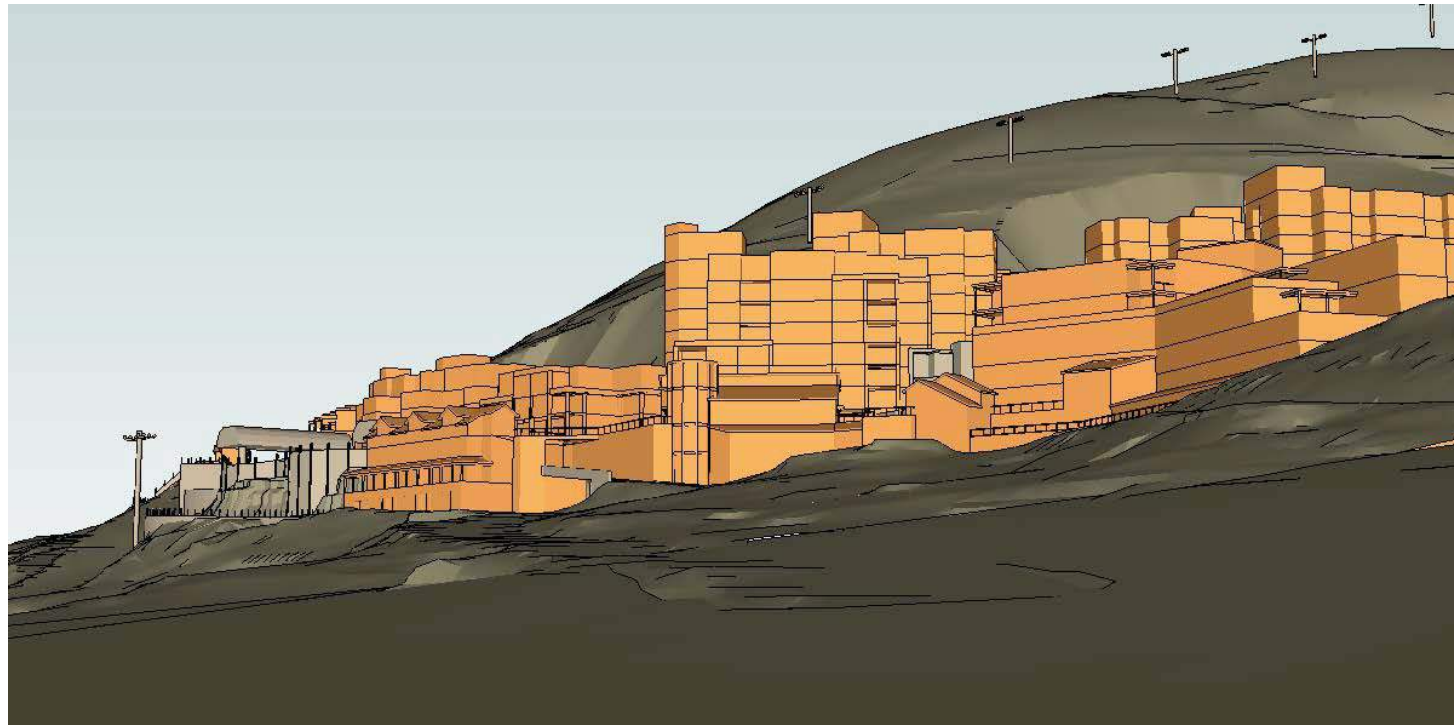


CUP (2009)

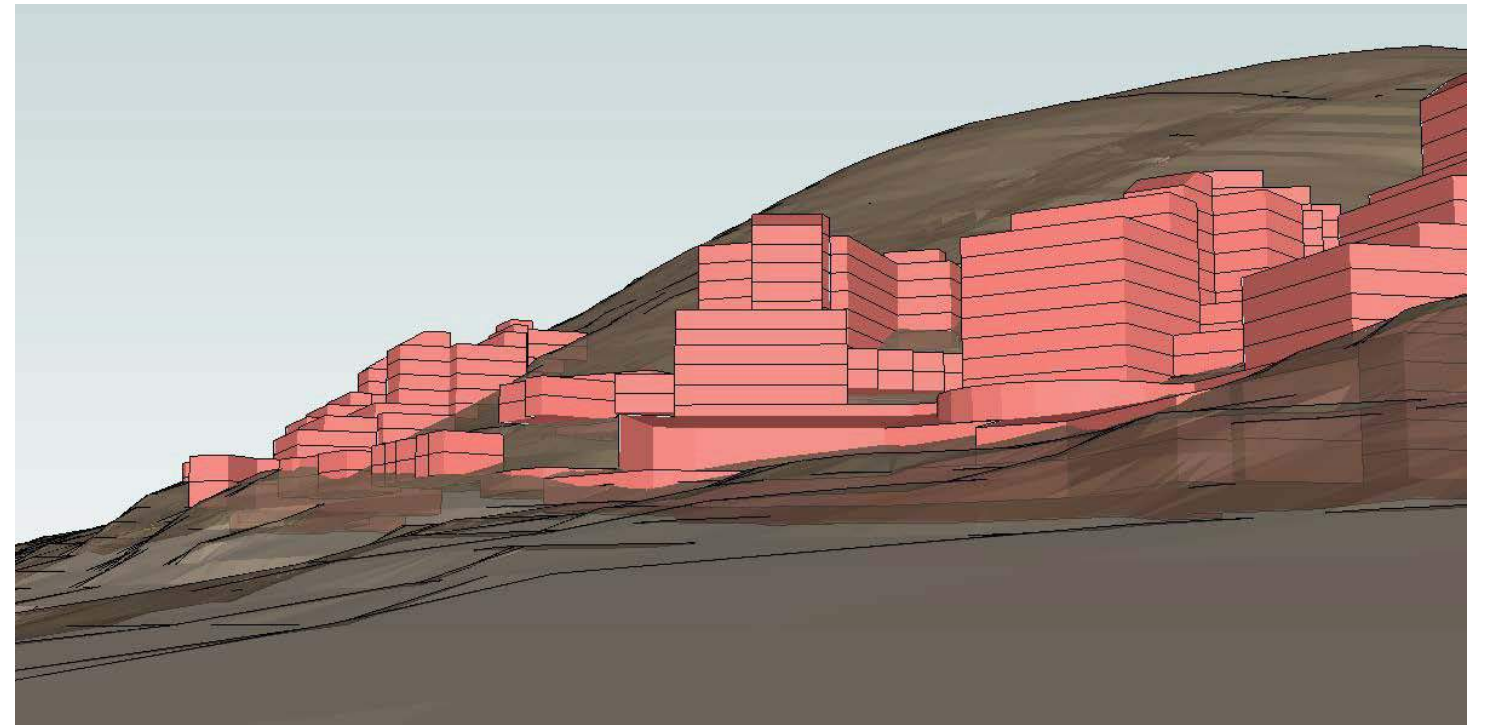


MPD Study (1985)

Lowell Empire



CUP (2009)



MPD Study (1985)

Northstar

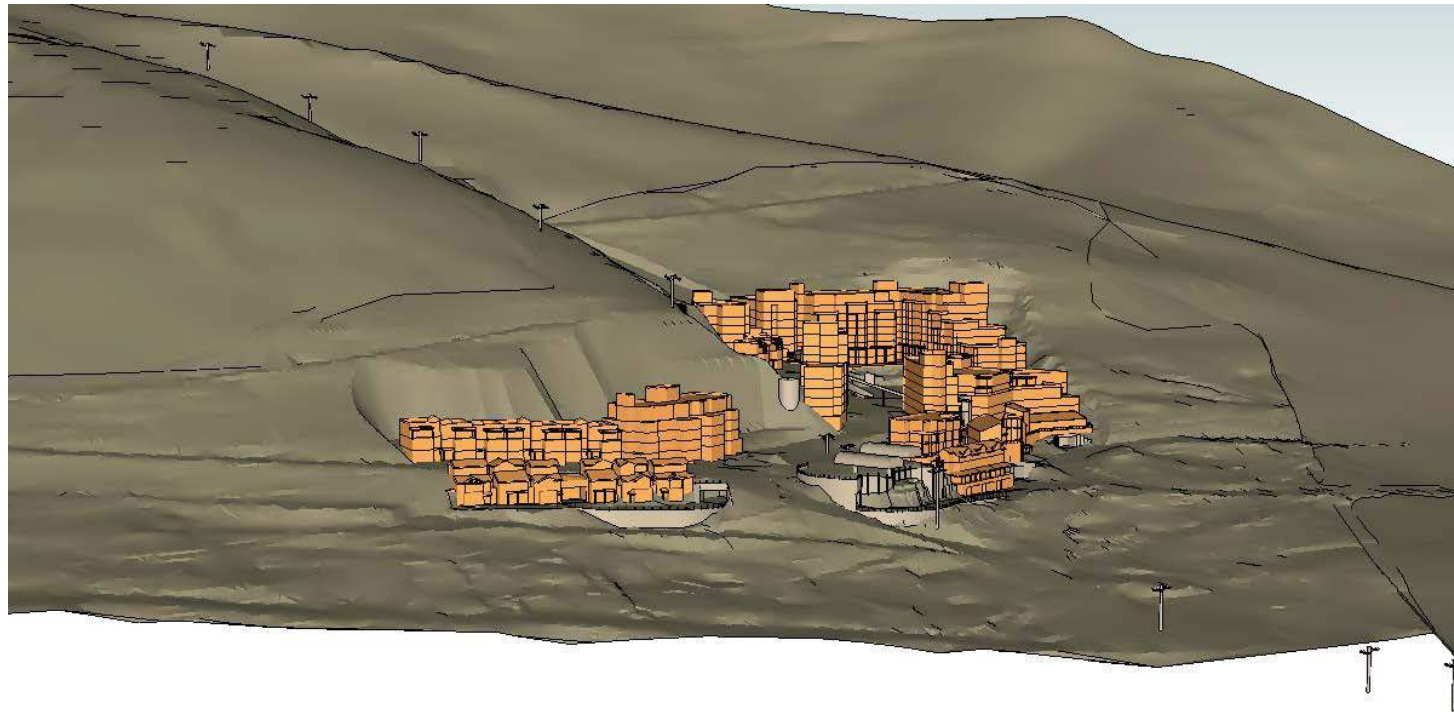


CUP (2009)

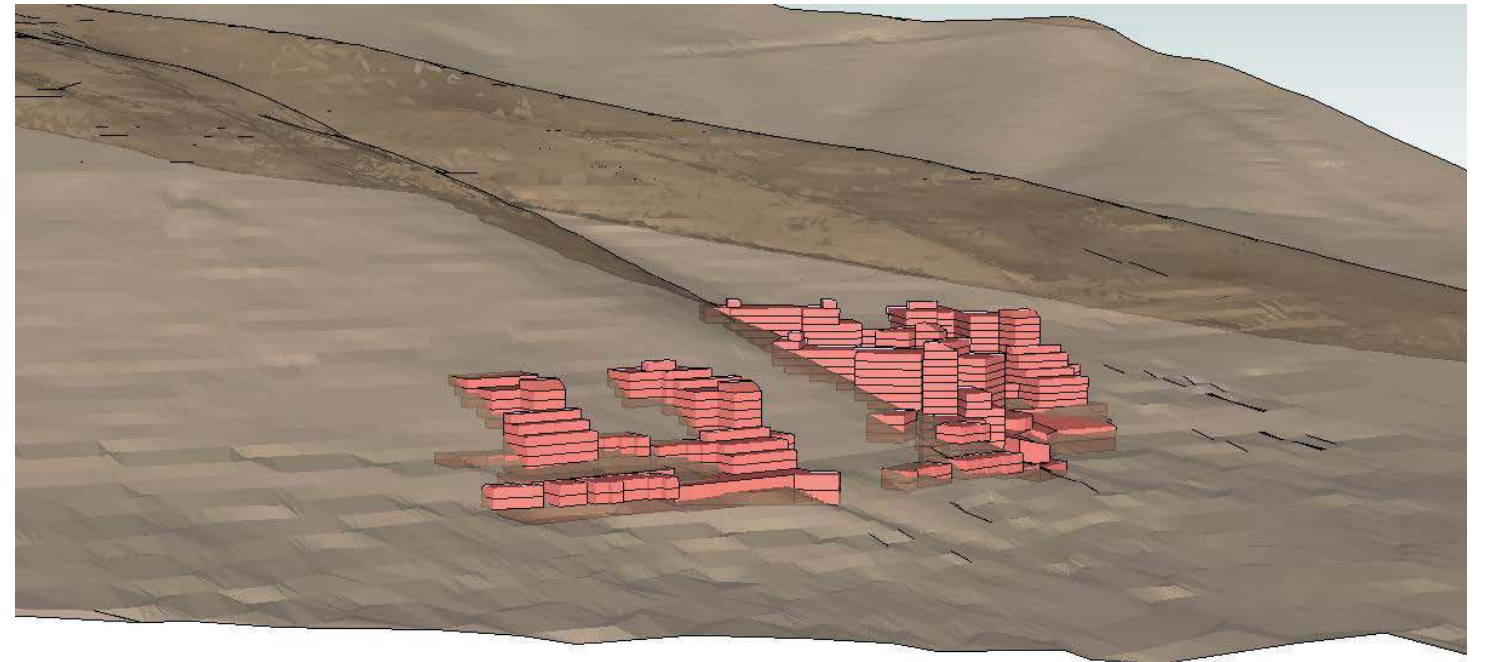


MPD Study (1985)

Ontario

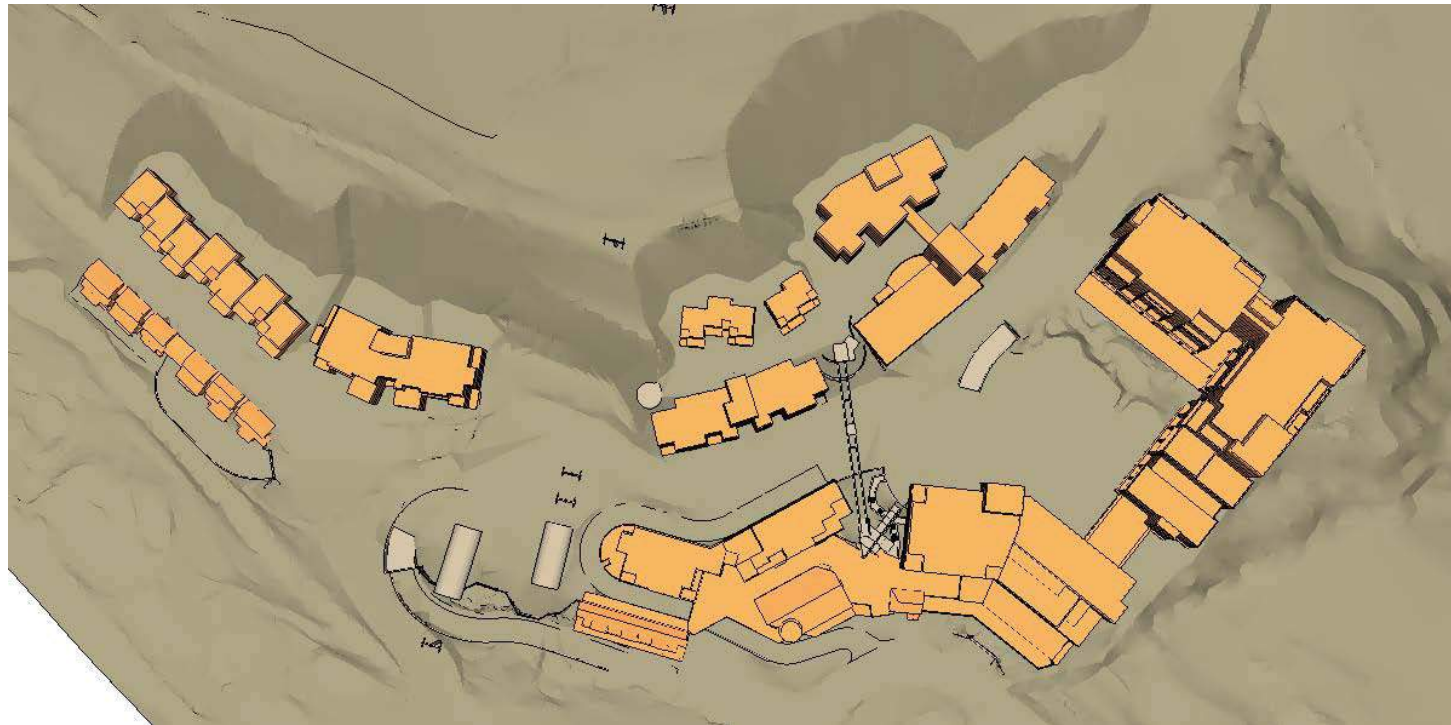


CUP (2009)

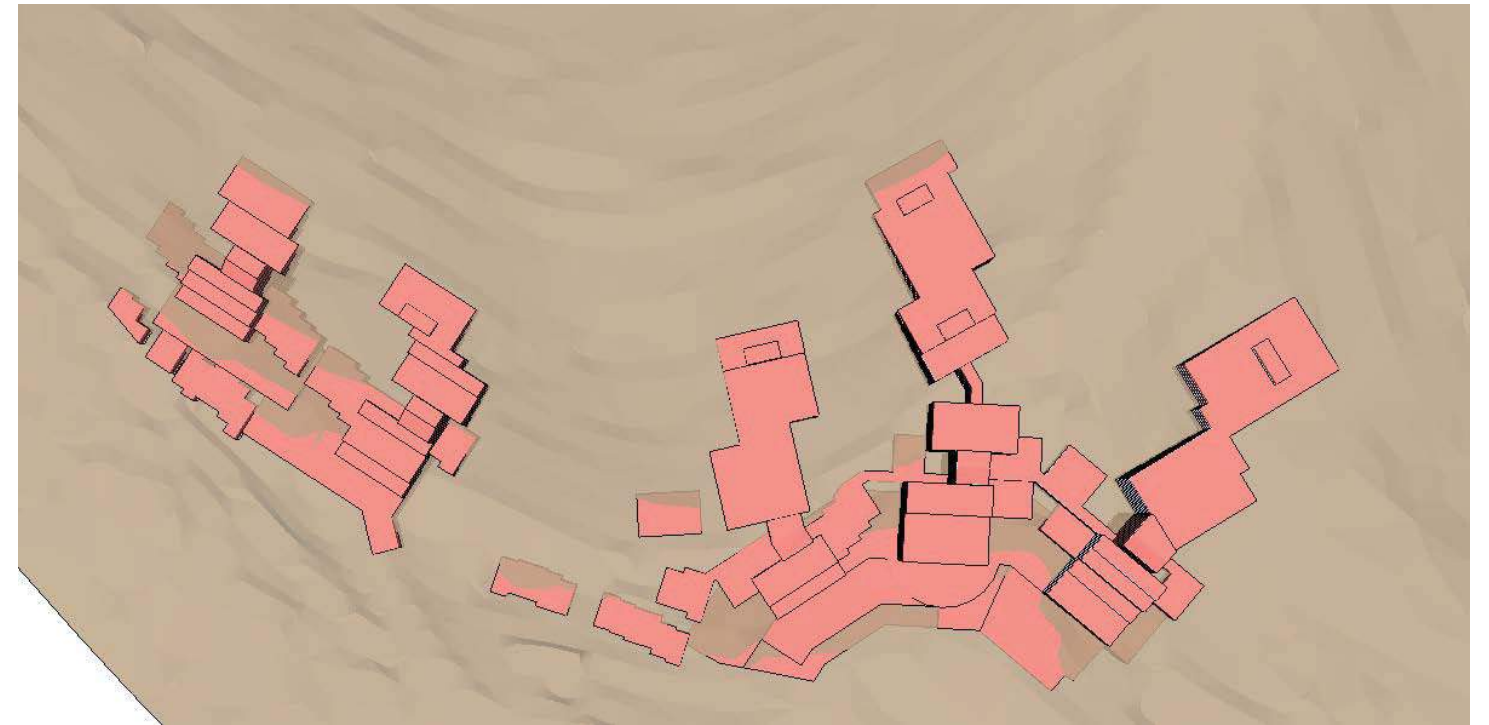


MPD Study (1985)

Plan View

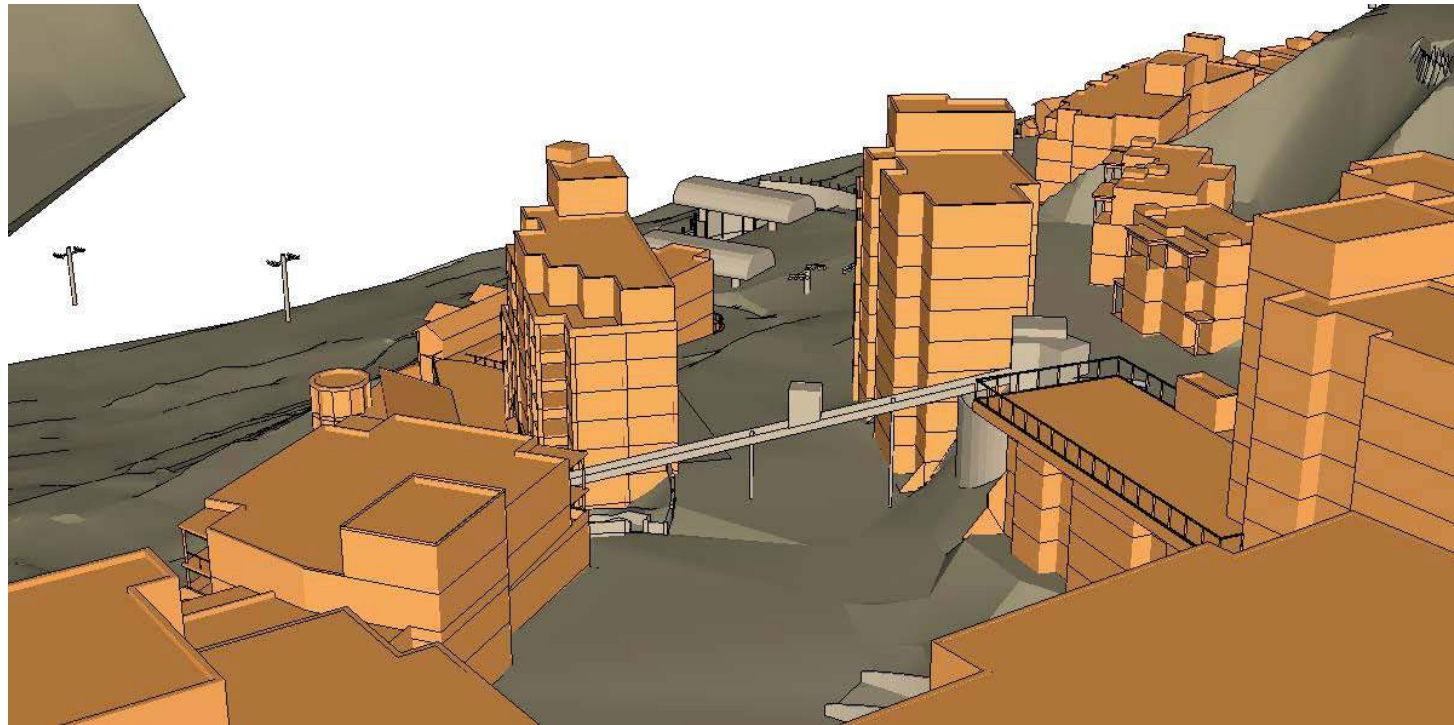


CUP (2009)

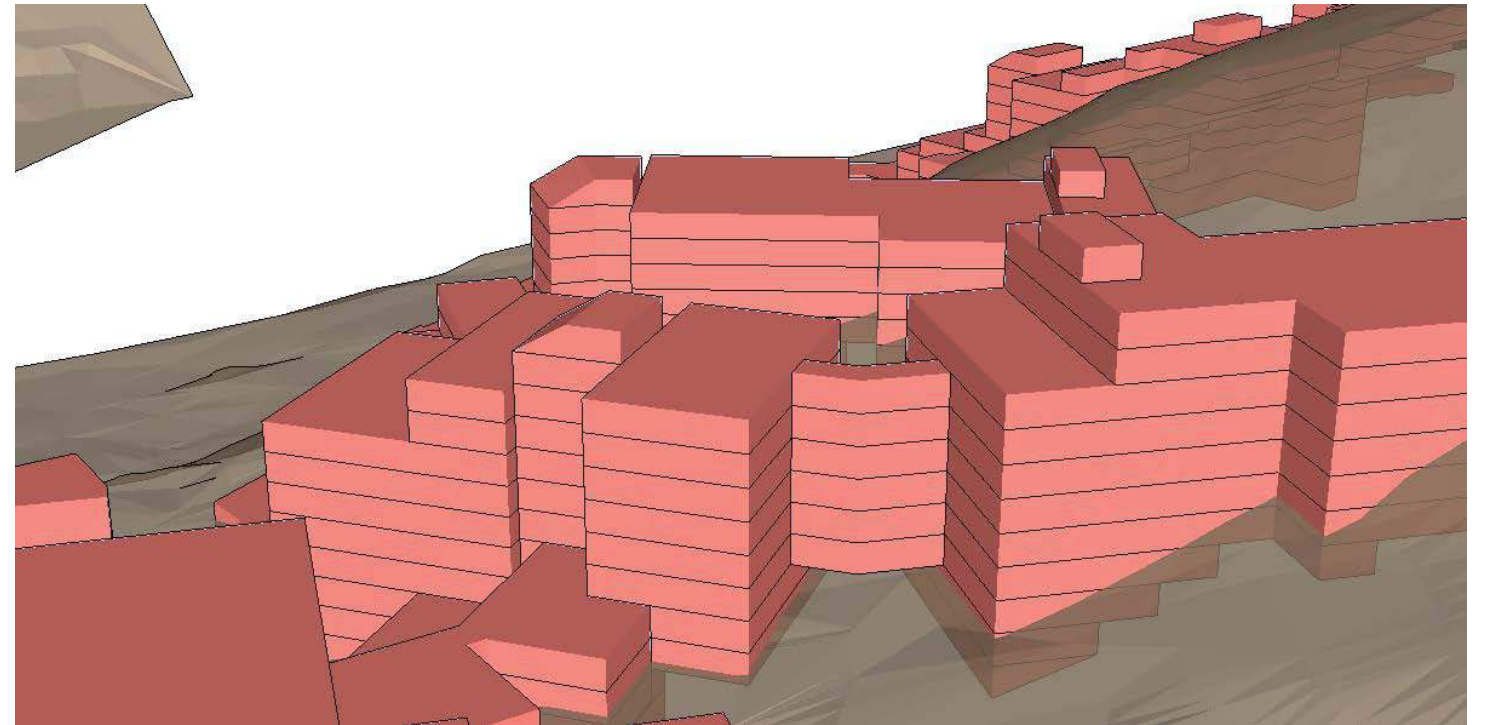


MPD Study (1985)

Ski Run

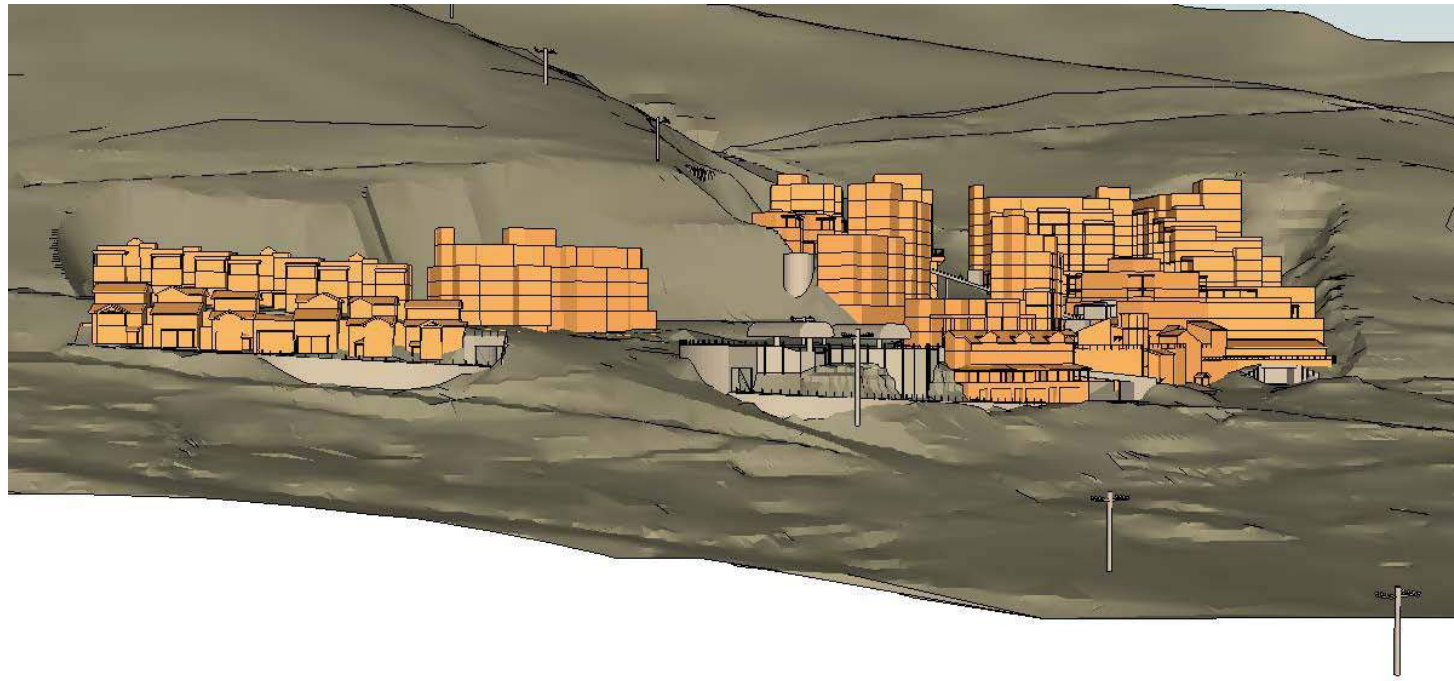


CUP (2009)

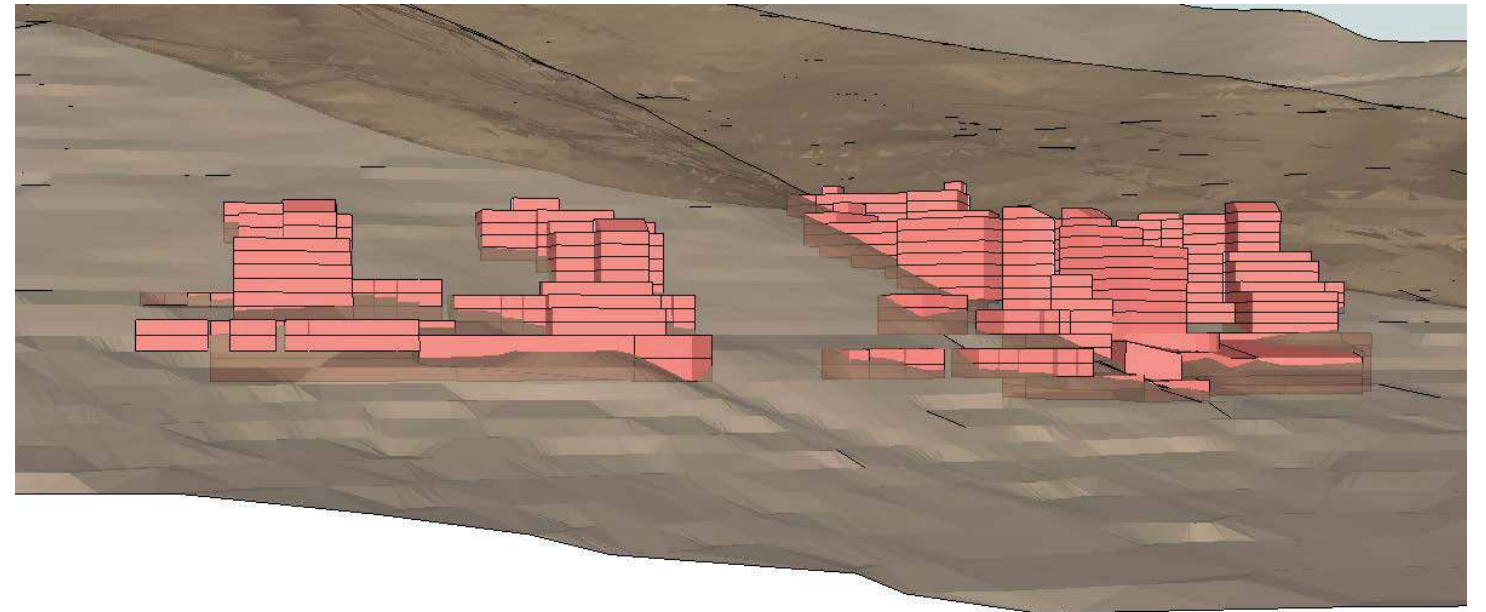


MPD Study (1985)

South Marsac



CUP (2009)



MPD Study (1985)



DATE: December 9, 2016

SUBJECT: Treasure Hill Properties' Square Footage and Volume Are Allowed and Appropriate under the Applicable Standards and Criteria

1. Background.

The Planning Commission Staff Report dated July 13, 2016, recites the applicable background of the Sweeney Properties Master Plan ("SPMP") and current Conditional Use Permit ("CUP") Application. (See p. 1–2.)

In April 2016, the Applicant, MPE, Inc., requested that the Planning Commission place its CUP Application for the development of the Hillside Properties back on the Commission's agenda and to review the Application for compliance with the applicable Land Management Code ("LMC") and SPMP Approval. The Planning Commission held public hearings on the CUP Application on June 8, July 13, August 10, and September 14, 2016.

The topics that the Planning Commission directed Staff and MPE to address at these past hearings and at the hearing scheduled for October 12 address portions of several criteria under the Conditional Use Review Process set forth in the applicable 2003 LMC,¹ and in particular address the following criteria:

- 8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;
- 11. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing; and
- 15. Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.

The topics also touch upon several of the CUP Standards for Review, including, in particular:

¹ Staff and MPE agree that the Fiftieth Edition of the LMC revised on July 10, 2003 ("2003 LMC") applies to the CUP Application.

2. the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation; and
4. the effects of any differences in Use or scale have been mitigated through careful planning.

The topics that MPE has discussed with the Planning Commission during the previous hearings in 2016 have also included several of the conditions of the SPMP Approval, including the building height and building envelope limits established by the SPMP Approval.

The CUP Application satisfies the CUP Standards for Review, each of the criteria set forth in the 2003 LMC, and the associated conditions of the SPMP Approval, including the criteria, standards, and conditions covered by the issues addressed during the prior hearings.

Because “[a] conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use,” and because the CUP Application conforms to the conditions of the SPMP Approval and proposes additional mitigating factors to address the impacts of square footage and volume, the Planning Commission should conclude that the CUP Application meets the criteria, standards, and conditions relating to these issues. Utah Code § 10-9a-507(2)(a).

2. The CUP Application Is Efficient.

2.1 Staff Has Failed to Provide an Explanation of Its Conclusions about Efficiency, Despite the Applicant’s Request.

In its July 13, 2016, report, Planning Staff concluded, without any explanation or justification, that the “current application is excessive and inefficient.” (July 13, 2016 Staff Report, p. 105.) In its September 9, 2016, submission, the Applicant noted that this conclusion lacked “any analysis or explanation.” (September 9, 2106 Position Paper, p. 4.)

Instead of providing an explanation or support for its conclusion, in its October 12, 2016, report, Staff again concluded, without providing any explanation, that “inefficient and excess square footage included in the project is creating adverse impacts from the building massing and bulk.” (October 12, 2016 Staff Report, p. 51.) Despite the Applicant’s request for an explanation of what square footage is “excess” and how the current Application is “inefficient,” Staff has failed to provide a response to the Applicant’s request.

2.2 Staff Continues to Repeat Inaccurate Analyses from Prior Staff Reports.

Although Staff has been unable to provide the Applicant with an explanation of its conclusions about efficiency, recent Staff reports have repeated false claims in older Staff reports about the design’s efficiency. In particular, in the Staff Report of September 14, 2016, Staff quoted the following from the report dated September 23, 2009:

Within Exhibit A, staff has calculated the common space, circulation, and accessory space as a percentage of each building.

The percentage is up to 41% in some buildings creating an inefficient design.

(September 14, 2016 Staff Report, p. 97 (quoting [September 23, 2009 Staff Report](#), p. 28).)

But Staff's analyses, as set forth in Exhibit A to the September 23, 2009, report—including Staff's claim about certain buildings having 41% of their square footage in common, circulation, and accessory space—are riddled with errors. Nonetheless, Staff compounded these errors by repeating them verbatim in recent Staff reports, without bothering to verify their accuracy.

First, Staff's September 23, 2009, efficiency calculations are based on imaginary numbers. The claimed 41% figure—which Staff touted in 2009 and continues to tout to this very day—comes from Staff's analysis of Building 1B. ([September 23, 2009 Staff Report, Ex. A, p. 39.](#)) In its analysis, Staff claimed that Building 1B has a total of 60,816 square feet, of which 25,079 square feet—or 41%—is common, circulation, and accessory space. (*Id.*)

Although it is uncertain where Staff obtained these numbers, it did not obtain them from the CUP Application. Attached hereto as Exhibit 1 is a spreadsheet titled "Efficiency Ratios of Above-Grade Spaces," which the Applicant has prepared based on its Application. (*See also* [Sheet P.16 – Area, Unit Equivalent & Parking Calculations, March 20, 2009](#) rev. (setting forth correct building square footages for Staff in early 2009).) As demonstrated by Exhibit 1 and Sheet P.16, Building 1B actually has a total of 44,051 square feet of above-ground space, of which 13,248 is common, circulation, and accessory space. The percentage of such space to the total is therefore 30%, making the building 70% efficient.²

Similar errors are found in Staff's analysis of other buildings, including significant discrepancies for Building 4B, which Staff claimed to have 94,257 square feet of common, circulation, and accessory space³ when, in reality, the building only includes 82,195 square feet of such space. (*Compare* [September 23, 2009 Staff Report, Ex. A, p. 43](#) with [Sheet P.16 – Area, Unit Equivalent & Parking Calculations, March 20, 2009](#) rev.)

Second, even where Staff used square footage information from the CUP Application, it failed to follow industry standards and the City's own Land Management Code when it calculated building efficiencies by including below-ground space, including parking. By including parking square footage in the common, circulation, and accessory category, the City made the Application artificially appear less efficient than it is.

As the Applicant has noted previously, the City's own definition of "Gross Floor Area" provides that "[b]asement Areas below Final Grade are not considered Floor Area." 2003 LMC § 15-15-1.91(A). Thus, such areas should not be included in any analysis of efficiency, which essentially looks at the ratio of residential/commercial unit space to the total amount of space. Penner, Richard H., *et al.*, Hotel and Design Planning and Development (Second Edition,

² Even if parking space is included in the calculations, which, as explained below, is not appropriate, Staff's calculations are off by more than 7,000 square feet—or nearly 15%.

³ Even with parking space included, which is not appropriate, Staff's calculations are still based on incorrect numbers.

December 2012) at 318 (“The relative efficiency of typical hotel floors can be compared most directly by calculating the percentage of the total floor area devoted to guestrooms.”). Of course, including parking space in any such analysis has the obvious effect of putting a thumb on the scale, making the project appear less efficient than it actually is.

The exclusion of parking space from the efficiency calculation is also consistent with industry standards. For example, the Cornell University School of Hotel Administration has explained, in a paper addressing hotel efficiency issues, that “[t]otal hotel gross area is the entire hotel, **excluding parking**.” deRoos, J. A. (2011), *Planning and Programming a Hotel*, at 5 (Fig. 21.3), Cornell University, School of Hospitality Administration (available at <http://scholarship.sha.cornell.edu/articles/310>) (emphasis added). Thus, in determining the efficiency of various hotel designs, the hotel industry excludes parking areas from the calculation of total space, as does Park City’s Land Management Code.

2.3 By Objective, Industry Standards, the Proposed Design Is Efficient.

Measured against common, typical, and objective standards, the design proposed in the Application is highly efficient. As set forth in Exhibit 1, the vast majority of the project’s floors have efficiency ratios greater than 70%, with many exceeding 80%. Common floor-efficiency standards within the hotel industry range between 60% and 75%. See Penner, *Hotel and Design Planning and Development* at 318 (“The relative efficiency of typical hotel floors . . . varies from below 60 percent in an inefficient atrium plan to more than 75 percent in the most tightly designed double-loaded slab.”); see *id.* at 319 (Fig. 15.2).

Thus, even though a small handful of floors have ratios between 60% and 70%, these floors are still well within hotel-industry guidelines. Moreover, the floors in this range of efficiency often have unique uses that explain such lower ratios, such as employee facilities and ski ticket offices.

The very few floors with efficiency ratios less than 60% are explained by necessary hotel amenities and floor-area uses, such as lobbies, employee housing, ballrooms and associated facilities, and laundry/maintenance facilities. Obviously, such uses and facilities are common in hotels and will typically reduce the efficiency of particular floors within the hotel.

Indeed, in terms of overall square footage, the Applicant’s design is efficient by industry standards. A typical hotel design that includes features and amenities similar to those proposed by the Applicant will have a total efficiency ratio in the range of 46–48%. See Penner, *Hotel and Design Planning and Development* at 308 (Fig. 14.6–“Summary Hotel Area Program”). Here, by contrast, the Applicant’s design has an overall efficiency of 68%—far above typical hotel efficiency ratios.

2.4 The City’s Own Analysis Confirms the Applicant’s Design Is Efficient.

Contrary to the City’s unsupported and unexplained statements about “excess” space and inefficient design, the City’s own objective analysis proves otherwise. The City’s [Exhibit W](#), which is an analysis by the City’s Planning Director of the percentage of square footage devoted to circulation and “back of house” uses in other hotels in the City, the Applicant’s design is at least as efficient as the most comparable hotels in the City. According to the City’s own analysis, the Applicant’s design has less circulation and “back of house” than St. Regis, the same as The

Montage, and virtually the same as Marriott Mountainside. Moreover, the Applicant's review of publicly available information suggests the City's analysis includes significant errors that underestimate the percentages for the other hotels, but the City has been unwilling to provide the underlying data for Exhibit W despite repeated requests by the Applicant.

3. The Proposed Parking Is Also Efficient as Possible.

Although parking is specifically addressed under CUP criteria not currently before the Commission, including criteria 5 and 13, attached as Exhibit 2 is an analysis setting forth the average space per parking stall for each of the proposed parking areas in the CUP Application. The Applicant is submitting this information at this time to respond to specific inquiries by the Commission regarding this issue.

The proposed parking design takes into account numerous design requirements and approval parameters in the SPMP, including the need to accommodate all parking needs in underground facilities, the unique topography of the site, fire and safety concerns, service parking and staging requirements, access issues, guest expectations, minimizing neighborhood impacts, and other operational considerations. Exhibit 2 identifies how these considerations have impacted the overall square footage of certain portions of the proposed parking areas.

4. The Current Proposal Is the Same Concept as Approved in the SPMP.

Both the November 9, 2016 (p. 8), and the October 12, 2016 (p. 53), Staff Reports contain the same statement: "*As discussed previously*, staff finds the project as designed is not in compliance with the concept approved by the City Council during the 1986 Master Plan approval" (emphasis added). However, a search of the record for a prior discussion by Staff of compliance with the concept approved by the SPMP yields nothing. This same language is contained, verbatim, in the September 23, 2009, Staff Report, which itself provides no reference to any prior Staff discussions about such issue. ([September 23, 2009 Staff Report](#), p. 34.) Thus, it appears that the City keeps repeating a purported finding for which it has never provided any explanation or analysis.

Moreover, these conclusory statements stand in sharp contrast to Staff's prior conclusion, stated in several other contemporary Staff reports, that "[t]he current Treasure Hill CUP plans comply with the clustered development concept approved with the Sweeney MPD." (See, e.g., March 9, 2005 Staff Report p. 2.)

Unlike Staff's current conclusory statement, as repeated from the September 23, 2009, Staff Report, Staff's earlier conclusion actually refers to the language of the SPMP approval.

Indeed, the SPMP refers to the proposed development "concept" several times. For example, Finding 1 refers to the "proposed clustered development concept." (SPMP Report, p. 2.) The SPMP Report provides additional context for this statement, explaining that

[a] variety of development concepts were submitted during the course of reviewing the proposed Master Plan. . . . The alternative concepts ranged from a "conventional" subdivision approach involving the extension of Norfolk Avenue, to a modern high—rise

concept. The staff, Planning Commission and general public have all favored the clustering of development as opposed to spreading it out. . . . The latest concept developed represents a refined version of the cluster approach originally submitted.

(SPMP Report, p. 7.) The SPMP further provides that “[t]he development concept proposed would cluster the bulk of the density derived into two locations; the Town Lift Mid-Station site and the Creole Gulch area.” (SPMP Report, p. 8.)

Similarly, under the heading “Overall Concept,” the SPMP Report explains that

[t]he concept of clustering densities on the lower portion of the hillside with some transferring to the Coalition properties has evolved from both previous proposals submitted and this most recent review process. . . . After considerable staff discussion and input, the cluster concept was developed. Because of the underlying zoning and resultant density currently in place, the cluster approach to developing on the hillside has been favored throughout the formal review and Hearing process.

(SPMP Report, p. 12.)

Nothing about the Applicant’s proposed design varies from the development concept approved in the SPMP. The application continues to cluster the density in the two locations identified in the SPMP for development. Thus, contrary to Staff’s current unexplained finding, which itself conflicts with Staff’s prior finding, the Applicant’s current design is exactly the same as the concept approved in the SPMP.

BJM:

EXHIBIT 1

EFFICIENCY RATIOS OF ABOVE-GRADE SPACES										
USEABLE SPACE		EFFICIENCY RATIO BETWEEN 60% & 70%			EFFICIENCY RATIO < 60%					
BUILDING		ABOVE GRADE SPACES								EFFICIENCY RATIO USEABLE AREA (*) ÷ TOTAL AREA
BLDG. No.	LEVEL	UNITS * (NET)	COMMON & CIRCULATION	ACCESSORY	PARKING (GROSS)	VESTED COMM. * (GROSS)	SUPPORT COMM. * (GROSS)	MEETING SPACE * (GROSS)	TOTAL ABOVE GRADE (GROSS)	
PARKING	Midstn - L1								0	Below Grade
1A	3-Story Townhouses	2,146	249						2,395	89.60%
		2,113	234						2,347	90.03%
		1,776	200						1,976	89.88%
		1,818	214						2,032	89.47%
		2,171	229						2,400	90.46%
		2,206	227						2,433	90.67%
	SUBTOTAL	12,230	1,353	0	0	0	0	0	13,583	
1B	L1								0	Below Grade
	L2	3,690	5,528	244					9,462	39.00%
	L3	7,164	1,647	244					9,055	79.12%
	L4	7,164	1,647	244					9,055	79.12%
	L5	7,164	1,647	244					9,055	79.12%
	L6	5,621	1,559	244					7,424	75.71%
	SUBTOTAL	30,803	12,028	1,220	0	0	0	0	44,051	
1C	L1								0	Below Grade
	3-Story Townhouses	23,478	2,002						25,480	92.14%
	SUBTOTAL	23,478	2,002		0	0	0	0	25,480	
MIDSTATION TOTAL		66,511	15,383	1,220	0	0	0	0	83,114	80.02%
PARKING	Creole								0	Below Grade
	4AB								0	Below Grade
	5AD								0	Below Grade
RAMP & ROADWAY									0	Below Grade
2	L1	433	130		3,661				4,224	10.25%
	2-Story Townhouses	5,936	524						6,460	91.89%
	L4			750		1,397			2,147	65.07%
	SUBTOTAL	6,369	654	750	3,661	1,397	0	0	12,831	
EMPLOYEE HOUSING	L1			2,147					2,147	0.00%
	L2			2,261					2,261	
	L3			2,261					2,261	
	SUBTOTAL			6,669	0	0	0	0	6,669	
3A	L1					3,746			3,746	100.00%
	SUBTOTAL				0	3,746	0	0	3,746	
3B	L1		1,333	2,816		8,273			12,422	66.60%
	L2	3,541	1,105	160					4,806	73.68%
	L3	3,541	1,105	160					4,806	73.68%
	L4	3,541	1,105	160					4,806	73.68%
	L5	3,429	1,113	160					4,702	72.93%
	L6	3,429	1,113	160					4,702	72.93%
	L7	3,429	1,113	160					4,702	72.93%
	L8	2,871	1,106	160					4,137	69.40%
	SUBTOTAL	23,781	9,093	3,936	0	8,273	0	0	45,083	
3C	L1		404			4,054			4,458	90.94%
	L2	4,189	386						4,575	91.56%
	L3	4,002	386						4,388	91.20%
	SUBTOTAL	8,191	1,176		0	4,054	0	0	13,421	
PLAZA BLDGS.	STAIR		450	180					630	0.00%
	POOL			792					792	0.00%
	SUBTOTAL		450	972					1,422	
4A	L1		7,574	8,763				10,815	27,152	39.83%
	L2		4,654	7,299				5,312	17,265	30.77%
	L3		377	4,663			10,994		16,034	68.57%
	L4		2,500	4,676			10,106		17,282	58.48%
	L5	11,290	1,735	654					13,679	82.54%
	L6	5,941	1,237	654					7,832	75.86%
	SUBTOTAL	17,231	18,077	26,709			21,100	16,127	99,244	
4B	B1								0	Below Grade
	L1								0	Below Grade
	L2		6,720	620			5,626		12,966	43.39%
	L3	4,700	2,687	2,218					9,605	48.93%
	L4	13,316	6,003	10,737					30,056	44.30%
	L5	19,774	7,063	1,209					28,046	70.51%
	L6	20,192	6,277	1,209					27,678	72.95%
	L7	14,917	5,159	3,883					23,959	62.26%
	L8	17,503	5,247	1,209					23,959	73.05%
	L9	16,354	5,153	1,209					22,716	71.99%
	L10	15,469	4,980	1,209					21,658	71.42%
	L11	16,001	4,202	507					20,710	77.26%
	L12	14,382	4,187	507					19,076	75.39%
	SUBTOTAL	152,608	57,678	24,517			5,626		240,429	
5A	B1								0	Below Grade
	L1								0	Below Grade
	L2	2,787	4,520	97					7,404	37.64%
	L3	5,281	1,494	214					6,989	75.56%
	L4	5,281	1,494	214					6,989	75.56%
	L5	5,281	1,494	214					6,989	75.56%
	L6	5,281	1,494	214					6,989	75.56%
	L7	5,281	1,611	97					6,989	75.56%
	L8	2,578	1,122	214					3,914	65.87%
	L9	2,578	1,122	214					3,914	65.87%
	L10	2,578	1,122	214					3,914	65.87%
	SUBTOTAL	36,926	15,473	1,692					54,091	
5B	B1								0	Below Grade
	3-Story Townhouses	9,445	1,070						10,515	89.82%
	SUBTOTAL	9,445	1,070						10,515	
5C	B1								0	Below Grade
	L1								0	Below Grade
	L2	3,303	1,577	304					5,184	63.72%
	L3	6,606	2,477	304					9,387	70.37%
	L4	6,606	2,477	304					9,387	70.37%
	L5	6,606	2,477	304					9,387	70.37%
	L6	3,303	1,991	97					5,391	61.27%
	L7	3,303	1,616	304					5,223	63.24%
	L8	3,303	1,726	194					5,223	63.24%
	L9	3,303	1,616	304					5,223	63.24%
	L10	3,303	1,616	304					5,223	63.24%
	L11	3,303	1,616	304					5,223	63.24%
	SUBTOTAL	42,939	19,189	2,723					64,851	
5D	B1								0	Below Grade
	L1	4,985	1,176	179					6,340	78.63%
	L2	4,985	1,176	179					6,340	78.63%
	L3	4,985	1,642	179					6,806	73.24%
	L4	4,985	1,176	179					6,340	78.63%
	L5	4,985	1,176	179					6,340	78.63%
	L6	4,985	1,176	179					6,340	78.63%
	SUBTOTAL	29,910	7,522	1,074					38,506	
CREOLE TOTAL		327,400	130,382	69,042	3,661	17,470	26,726	16,127	590,808	65.63%
PROJECT TOTAL		393,911	145,765	70,262	3,661	17,470	26,726	16,127	673,922	67.40%

NOTES

Note: Below grade spaces not included in efficiency ratios.

3,880 s.f. lobby for 1 Buildings (38% of total)

Only stairs to units within parking garage are "useable space"

Ticket office, classified "resort accessory"

Added per City's request

Service corridor behind commercial uses, classified "accessory"

Upper story stepped, decreasing useable area

Public access from Lowell
Public restrooms & snack bar

Ballroom lobby, breakout space & prep area (60% of total)
Ballroom lobby, breakout space & prep area (69% of total)
2,604 s.f. employee locker room (16% of total)
2,274 s.f. project offices + 1,168 s.f. ski storage (20% of total)

3,098 s.f. lobby and registration area (24% of total)
1,598 s.f. maintenance facility (17% of total)
9,528 s.f. laundry facility (32% of total)

2,674 s.f. sitting area/lounge for guests (11% of total)

3,119 s.f. lobby for 5 Buildings (42% of total)

Number of units half of levels below

Number of units half of levels above

Number of units half of levels below

EXHIBIT 2

INTERIOR ROADWAY - 10,545 S.F.

GROSS AREA	64,429 S.F.
ACCESSORY SPACES	(14,731)
CIRCULATION	(1,598)
ADJUSTED GROSS	48,100 S.F.
STALLS	± 96 STALLS
	501 S.F. PER STALL

- LEGEND:**
- OUTLINE OF GROSS AREA
 - ACCESSORY SPACES
 - CIRCULATION
 - INTERIOR ROADWAY - 22,867 S.F. TOTAL (NOT INCLUDED IN PARKING)

- FACTORS AFFECTING EFFICIENCY:**
- EXTENDED DRIVEWAY ACCESS
 - CROSS-AISLES
 - SINGLE-LOADED AISLE
 - VALET/DROP-OFF AREA
 - ACCESS AISLE TO UNITS/BUILDINGS
 - LOADING DOCK
 - PEDESTRIAN CIRCULATION

GROSS AREA	34,792 S.F.
STALLS	± 53 STALLS
	656 S.F. PER STALL

CREOLE & MIDSTATION PARKING - LEVEL 1

GROSS AREA	30,436 S.F.
ACCESSORY SPACES	(9,193)
CIRCULATION	(692)
ADJUSTED GROSS	20,551 S.F.
STALLS	± 39 STALLS
	527 S.F. PER STALL

INTERIOR ROADWAY - 4,512 S.F.

CREOLE PARKING - LEVEL 2

GROSS AREA	20,691 S.F.
ACCESSORY SPACES	(1,570)
CIRCULATION	(699)
ADJUSTED GROSS	18,472 S.F.
STALLS	± 23 STALLS
	803 S.F. PER STALL

GROSS AREA	34,868 S.F.
ACCESSORY SPACES	(7,438)
ADJUSTED GROSS	27,430 S.F.
STALLS	± 70 STALLS
	392 S.F. PER STALL

4B & 5AD PARKING - LEVEL 1

GROSS AREA	27,428 S.F.
ACCESSORY SPACES	(78)
CIRCULATION	(1,899)
ADJUSTED GROSS	25,451 S.F.
STALLS	± 51 STALLS
	499 S.F. PER STALL

4B PARKING - LEVEL 3 (2 SIM.)

GROSS AREA	19,591 S.F.
ACCESSORY SPACES	(87)
CIRCULATION	(716)
ADJUSTED GROSS	18,788 S.F.
STALLS	± 44 STALLS
	427 S.F. PER STALL

4B PARKING - LEVEL 4



Planning Commission Staff Report

Application: PL-16-03313
Subject: Historic Kimball Garage- 638 Park Avenue
Author: Anya Grahn, Historic Preservation Planner
Date: December 14, 2016
Type of Item: Administrative - Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission holds a public hearing, considers public input, and approves the Conditional Use Permit at 638 Park Avenue for the proposed Private Event Facility pursuant to the findings of fact, conclusions of law, and conditions of approval outlined in this report.

Description

Applicant: CPP Kimball LLC represented by Tony Tyler
Location: Historic Kimball Garage at 638 Park Avenue
Zoning: Historic Recreation Commercial (HRC), Heber Avenue Subzone
Adjacent Land Uses: Residential single-family and multi-family; commercial

Summary of Proposal

On September 19, 2016, the Planning Department received an application for a Conditional Use Permit (CUP) for a Private Event Facility at 638 Park Avenue. The applicant is proposing to rehabilitate the existing historic building for Retail and other Commercial uses and add a new addition to the east, adjacent to Main Street. The upper level of the addition will be reserved for a Private Event Facility that extends on to the rooftop terrace. (This CUP will allow for outdoor private events, without requiring individual Administrative CUPs for outdoor events. It also permits the construction of tents on the rooftop terrace, as conditioned.) The Planning Commission reviewed the request for a CUP on November 9, 2016 (see Exhibits 1 & 2), and requested that staff provide additional conditions of approval to regulate noise on the rooftop terrace and balcony, limit the use of tents on the rooftop terrace, and provide a clear mechanism for returning to Planning Commission for review and mitigation of any complaints of failure to comply with the CUP.

Background

Staff presented the background of this site, its recent Historic District Design Review (HDDR), and appeal of the HDDR to Planning Commission on November 9, 2014 ([Staff Report](#), Page 23). On September 19, 2016, the Park City Planning Department received a Conditional Use Permit (CUP) application requesting approval of a Private Event Facility at 638 Park Avenue; the application was deemed complete on September 28, 2016. The space will be on the top level of the new addition bordering Heber Avenue

and Main Street proposed for the historic Kimball Garage. There will be 3,785 square feet of event space, connected to a lobby and warming kitchen, as well as access to a 477 square foot outdoor balcony overlooking the Heber Avenue-Main Street corner and a second level 2,530 square foot rooftop terrace over the historic Kimball Garage. Both the balcony and the terrace will be used as part of the Private Event Facility. The remainder of the rehabilitated historic structure and new development will be divided into commercial spaces on the lower levels.

The Planning Commission reviewed this CUP request for a private event facility that has an outdoor capacity on November 9, 2016, but continued the item to the December 14th meeting in order to provide staff and the applicant additional time to revise the Conditions of Approval. Because this CUP regulates the outdoor rooftop terrace, the applicant will not be required for additional Admin-CUPs for any outdoor events and uses that may utilize the rooftop terrace associated with the private event facility; the CUP also permits the installation of any tents on the rooftop deck. The Planning Commission expressed concern about the following during the November meeting:

- Need for a clear mechanism for the Planning Commission to re-review the CUP should there be any complaints related to noise, traffic, hours of operations, glare, light, etc. that could impact the adjoining residential neighborhood.
- Need for additional restrictions related to outdoor events and noise.
- Parameters for enclosing the rooftop terrace with a tent during events.

The purposes of the Historic Recreation Commercial (HRC) District:

- A. maintain and enhance characteristics of Historic Streetscape elements such as yards, trees, vegetation, and porches,
- B. encourage pedestrian oriented, pedestrian-scale Development,
- C. minimize visual impacts of automobiles and parking,
- D. preserve and enhance landscaping and public spaces adjacent to Streets and thoroughfares,
- E. provide a transition in scale and land Uses between the HR-1 and HCB Districts that retains the character of Historic Buildings in the Area,
- F. provide a moderate Density bed base at the Town Lift,
- G. allow for limited retail and Commercial Uses consistent with resort bed base and the needs of the local community,
- H. encourage preservation and rehabilitation of Historic Buildings and resources.
- I. maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

Project Description

As described in the November 14, 2016, staff report, the applicant is proposing to rehabilitate the historic Kimball Garage and construct a new addition to the east, fronting Main Street. The historic Kimball Garage and the new addition will be broken into seven (7) retail spaces on the lower level of the new addition as well as the main level of the Kimball Garage and new addition. Because this property is located in the

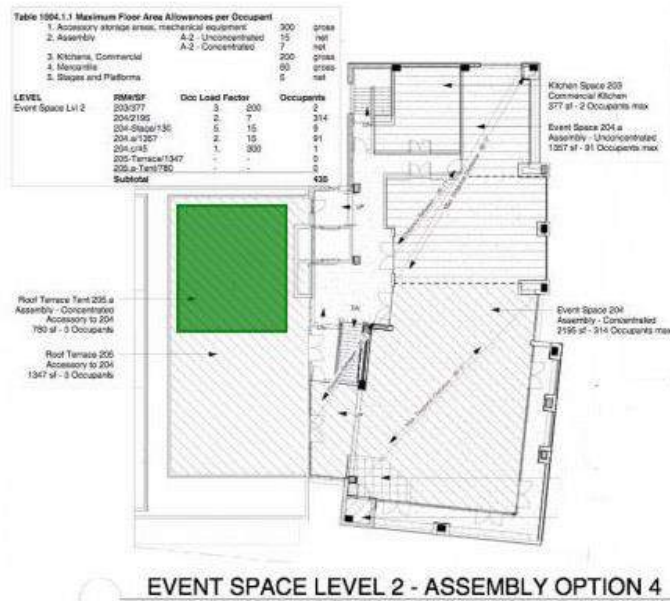
Heber Avenue Subzone, the allowed uses within the sub-zone are identical to the allowed uses of the Historic Commercial Business (HCB) District, and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District.

On the third level of the new addition, the applicant is proposing a Private Event Facility which includes access to a balcony and rooftop terrace. The LMC defines this as a facility where the primary Use is for staging, conducting, and holding Private Events. Private Events are events, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend. A Private Event Facility is a Conditional Use in the Heber Avenue Sub-zone and is not permitted in storefronts along Heber, Park, and Main Street. This CUP will regulate both the interior Private Event Facility as well as this use as the outdoor use of the rooftop space that is part of this use.

The Private Event Facility will be 3,785 square feet on the top floor above the street level commercial spaces as well as the adjacent rooftop terrace, and it will be accessible from an elevator and stair lobby that connects with an entrance on Heber Avenue. The event space spills out onto a 477 square foot balcony that wraps the façade of the new addition along Heber Avenue and Main Street. A second level roof terrace of 2,530 square feet is proposed over the roof of the historic Kimball Garage. The CUP addresses the interior private event space as well as the rooftop terrace and balcony.

The CUP will also regulate any tents installed on the rooftop terrace as part of the Private Event Facility use. The applicant has designed a side-gable tent of 780 square feet. The tent is fifteen in height from its base to the top of its roof peak; it does not exceed the height limitations of this zone. The applicant proposes to install the tent on the northeast corner of the rooftop terrace, where it will be screened from Park Avenue by the barrel-vault roof and the parapet of the historic Kimball Garage. The tent is set back beyond the east-west midpoint of the rooftop terrace to further minimize its visibility and reduce its size. The square outline below shows the placement of the proposed tent. (See Exhibit 3—Tent Specifications & Rendering.)

In the November 9, 2016, staff report for this item, staff had initially recommended that any tents on the rooftop terrace be reviewed on a case-by-case basis through an Administrative CUP (Admin-CUP). Based on the feedback from the Planning Commission and the number of Conditions of Approval staff has introduced related to the tent, staff finds that it would be redundant to require the Admin-CUP. Rather, staff will regulate the tent through this CUP. Because the proposed tent is over 400 square feet, the Building Department will require a fire permit each time the tent is installed; the frequency and duration of the tent's installation will be monitored by the Planning Department through this permit.



The green shading shows the proposed location of the 780 square foot tent to be installed on the rooftop terrace.

Analysis

Staff presented a Land Management Code analysis as part of the November 9th report (See page 385-386 of the report). Staff found that the proposal complied with the lot and size requirements of the HRC Zoning District.

Analysis of Conditional Use Criteria

Conditional Uses are subject to review according to the following criteria set forth in the LMC 15-1-10(E). Staff's analysis is in *italics*.

(1) Size and location of the Site;

The property consists of 18,550.13 square feet of lot area and is currently developed with the 13,477 square foot historic Kimball Garage building. The applicant is proposing to construct a 19,381 square foot addition proposed on the east side of the existing building. The new addition will include a second level balcony that wraps the corner of the addition along Heber Avenue and Main Street as well as a new roof terrace above the existing Kimball Garage. (The outdoor use is part of the Private Event Facility to be located on the top level of this new addition.) The addition complies with setbacks, height, and density and is appropriate for the size and location of the Site.

No unmitigated impacts.

(2) Traffic considerations including capacity of the existing Streets in the Area;

The property is currently accessed by Main Street along the east side, Heber Avenue along the south side, and Park Avenue along the west side. The previous owners of the building—the Kimball Art Center—regularly used the entire building and adjacent plaza

area on the southeast corner of the site for events, approved through Special Events permits. Because the current owner will be reducing the overall size of the event space compared to that of the previous owners, they did not conduct a transportation study as they found there would be reduced demand based on the size of the proposed event space.

Staff has met with the Building Department to discuss occupancy load. The occupancy load is based off of square footage, number of sanitation fixtures, and the seating plan. In talking with the Park City Fire Marshall, the exterior spaces would not necessarily be included in the occupancy load. Should they be enclosed, they would then need to be reviewed to determine a safe occupancy load.

During their occupancy of the building, the Kimball Art Center frequently held large events both through the special events license, Master Festival License, and private events. In 2015, the Kimball hosted an event with an occupant load of 697 people. The applicant finds that the proposed Private Event Facility will have an occupancy load of 480 people (including the use of the rooftop terrace and balcony), a 32% reduction from past event occupancy loads; however, the frequency of the private events will increase due to this use.

Staff does not anticipate that the new event space will generate any new traffic to the site, compared to that of the Kimball Art Center's past events. Many of the applicant's anticipated events—meetings, cocktail receptions, weddings, etc.—will likely not meet the maximum occupancy load of the space; however, others will. Guests and patrons using the Private Event Space will have to abide by the same parking and access restrictions as other visitors to Main Street and this development. Depending on the size of the event, staff anticipates seeing an increase during load in and load out; however, staff also finds that the Main Street area along with China Bridge are adapted for these influxes of traffic.

Special Events, as defined by the LMC, are those events, public or private, with either public or private venues, requiring City licensing beyond the scope of normal Business and/or liquor regulations or creates public impacts through any of the following:

- A. Use of City personnel;
- B. Impacts via disturbance to adjacent residents;
- C. Traffic/parking;
- D. Disruption of the normal routine of the community or affected neighborhood; or
- E. Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.

Any organized activity involving the use of, or having an impact, on the above shall require a permit as outlined in Section 4-8-2 of the Municipal Code. Event levels are determined based on degree of City Impacts including but not limited to anticipated

attendance, use of amplified sound, transportation and parking, use of public or private property and admission. Any event may be defined as the following if they meet one or more of the listed criteria in a given category:

- F. Level One Event: The attraction of crowds up to 199 people; OR necessity for rolling street closure.*
- G. Level Two Event: The attraction of crowds between 200 and 499 people; OR necessity for partial street closure.*
- H. Level Three Event: The attraction of crowds greater than 500 people; OR necessity for street closure.*

As proposed, the event facility can hold approximately 480 people, which would be considered a Level Two Event. Staff finds that the applicant shall request a Special Events Permit for any event that goes beyond the Private Event Facility Use and the Conditions of Approval outlined in this CUP as outlined in Condition of Approval #2.

Because any event at full occupancy—480 people—could be considered a Level Two Event, staff has incorporated additional conditions of approval consistent with those used by the Special Events Department for Level Two Special Events, including:

#3. Guests and patrons using the Private Event Facility shall abide by the same parking and access restrictions as other visitors to Main Street.

#4. The applicant, at its cost, shall incorporate such measures to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the events will be conducted with due regard for safety are provided and paid for by the applicant.

#5. The owner shall orient the activities so as to minimize sound impacts to the neighborhoods and the applicant shall monitor the following:

a. The owner, or his/her designee, shall provide on-site management for each aspect of the event.

b. The owner shall be responsible to ensure that the sound system maintains level adjustments not to exceed provisions of the Park City Noise Ordinance for the outdoor use.

No unmitigated impacts, as conditioned.

(3) Utility capacity:

A final approved storm water, utility, and grading plan is required prior to issuance of a building permit. All above ground utility infrastructure (transformers, ground sleeves, telephone boxes, cable boxes, etc.) are to be located on the property and behind the new addition, on the northwest corner of the site. The applicant has proposed to install mechanical equipment and utilities, such as heating and air conditioning units, on the rooftop of the new addition. The transformer will be located to the west of the new addition, in the rear yard.

Staff recommends Condition of Approval #9 requiring that a Utility Plan must be provided at the time of the building permit application showing the location of dry facilities on the property to ensure that the location of transformers and other utility infrastructure on the property can be adequately screened and written approval from the utility company is provided indicating that are satisfying this condition. Condition of Approval #10 addresses the screening of any ground-level or rooftop equipment from public view.

No unmitigated impacts, as conditioned.

(4) Emergency vehicle Access;

Primary emergency access for the building is from Main Street, Heber Avenue, and Park Avenue. The entrance to the upper level event space will be limited to a lobby located along Heber Avenue. **No unmitigated impacts.**

(5) Location and amount of off-Street parking;

As previously noted, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to an FAR of 1.5; the applicant is proposing a total FAR of 1.45 following completion of the new addition. Any traffic generated by the private event facility will likely find parking in one of the City's public parking lots such as the Flagpole lot or China Bridge, along Park Avenue, or in one of the nearby private parking garages at Summit Watch, Gateway Mall, or the Town Lift. The applicant anticipates that most event attendees will be shuttled from off-street lodging or will be lodging in Old Town.

Staff has found that no new traffic will be generated to this site; however, staff does anticipate an increase in traffic at this intersection during load-in and load out. Staff finds that the Main Street area along with China Bridge are adapted for these influxes of traffic.

Staff has incorporated Condition of Approval #3 emphasizing guests and patrons using the Private Event Facility shall abide by the same parking and access restrictions as other visitors to Main Street.

No unmitigated impacts.

(6) Internal vehicular and pedestrian circulation system;

The upper level Private Event Facility will be accessed from Heber Avenue. Event attendees will enter a lobby with stairs and an elevator that lead to the upper level event space. (Access, circulation, and lobby areas are permitted within Storefront property.) There is no vehicular access proposed. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue. **No unmitigated impacts.**

(7) Fencing, Screening, and landscaping to separate the Use from adjoining Uses;

*The use is consistent with neighboring structures as it primarily faces Main Street and Heber Avenue. The upper level event space will feature a balcony that wraps around the Heber Avenue and Main Street façade of the new addition and overlooks the Main Street and Heber Avenue intersection. On the west side, the event space will lead out onto a rooftop terrace above the historic Kimball Garage. The roof terrace is setback from the parapet of the historic building in order to minimize its appearance but also further separate it from neighboring uses. On the west side, the roof terrace will be separated from the residential neighborhood along Park and Woodside by the barrel-vault roof of the Kimball. As previously noted, this CUP regulates the outdoor space as part of the Private Event Facility. **No unmitigated impacts.***

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

The historic Kimball Garage is a horizontally-oriented one-story brick block structure that consumes nearly half of the property. The new addition complements the visual and physical qualities of the historic building. Building components and materials used on the new addition, such as the proposed wood and brick materials as well as the windows and doors, are of scale and size to those found on the original building. Window shapes, patterns, and proportions found on the historic building are reflected in the new addition. The addition is visually separated from the historic building on the Heber Avenue façade by a transitional element and its change of materials; this is not an in-line addition. Though the historic building is characterized by its large, low mass, the new addition has been broken up to reflect the general width of buildings on lower Main Street and complement the rhythm and pattern of the streetscape. Additionally, the lower level commercial spaces will maintain the Heber Avenue and Main Street-orientation of the buildings.

The BOA found that the proposed removal of one of the barrel-vaulted roof forms to accommodate the rooftop terrace was appropriate largely because the terrace would not be visible from the public right-of-way. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, heaters, tents, and other temporary structures from detracting from the invisibility of the deck. Staff finds that the use of umbrellas, portable heaters, and similar improvements may be used during the private events; however, they shall not be permanently stored on the rooftop terrace or visible from the public right-of-way except when in use as indicated by Condition of Approval #11.

LMC 15-4-6 Temporary Structures, Tents, and Vendors, only allow tents and other temporary structures to be installed for a duration no longer than 14 days and no more than 5 times per year on the same Property or Site. As previously discussed, the Building Department will have to re-evaluate the space's occupancy load should a tent be installed on the rooftop terrace based on the space's sanitation facilities, seating, food service/handling, snow removal, etc. The Building Department also requires a fire permit for the installation of any tent equal to or greater than 400 square feet, the

square footage measured from the outside dimensions. Planning Staff finds that they can track the frequency and duration of the tent through a fire permit.

The Planning Commission expressed concern about the use of tents on the rooftop terrace, especially given the BOA's input to maintain the rooftop terrace as invisible from the public right-of-way. Staff finds that any tent to be constructed temporarily on the rooftop terrace shall be setback from the parapet and the south edge of the roof terrace in order to limit its visibility and mass from the street. The tent is not anticipated to increase the occupancy of the existing building. Staff finds the following Conditions of Approval should be included with this approval:

#12. Any proposed tent will require approval of an Administrative CUP. As such, the review shall find:

- a. The tent shall not increase the occupancy of the existing building.*
- b. The tent shall be setback from the parapet along Heber Avenue and the south edge of the roof terrace in order to limit its visibility and mass from the street.*
- c. The tent shall be solid in color; however, it may have some clear openings such as windows or doors. The colors and materials of the tent shall complement the building and shall not contain reflective material.*
- d. The tent shall be no more than fifteen feet (15') in height.*
- e. The tent's installation and/or disassembly shall not require the use of any machinery such as cranes, compressors, or generators. Hand portable air compressors may be used to operate power tools as necessary.*
- f. The tent shall not be erected for more than four (4) consecutive days up to fifteen (15) times per year (including setup and removal), except for the once a year in which the tent shall be allowed to be erected for ten (10) days (including setup and removal). The number of days the tent is up shall not exceed 70 days, as required by LMC 15-4-16.*
- g. The applicant is responsible for coordinating the necessary building permits with the Building Department for all plans for tents.*

As previously described, the applicant has proposed a tent specifically designed for this site. It is fifteen feet (15') in height and 780 square feet. The tent will be installed on the north half of the rooftop terrace, above the northeast corner of the historic Kimball Garage. The location of the tent minimizes its visibility from Heber and Park Avenues as it will be shielded by the barrel-vault roof form to the west and the parapet of the historic building to the south. The new addition to the east will make the tent invisible from Main Street. (See Exhibit 3.)

No unmitigated impacts, as conditioned.

(9) Usable Open Space:

*There are no open space requirements specified for this development. The property meets the required front, rear, and side yard setbacks except for the historic property. Per LMC 15-2.5-6 historic structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid non-complying structures. The lot is 18,550 square feet and the total building footprint is 13,260 square feet, which leaves 5,290 square feet of footprint. Staff finds that approximately 28.5% of the lot is open space. **No unmitigated impacts.***

(10) Signs and lighting:

*All new signs and exterior lighting must be in conformance with the Park City codes and the Design Guidelines for Historic Districts and Historic Sites. Signs require a separate sign permit issued by the City. All exterior lighting is designed to be down directed and shielded. Any existing exterior lighting not in compliance with the Code shall be modified prior to final certificate of occupancy. **No unmitigated impacts, as conditioned.***

(11) Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing:

Lower Main Street is characterized by large multi-story mixed use developments containing commercial and residential condominium uses. The physical design of the new development is consistent with the surrounding larger-scale developments such as the Town Lift and Summit Watch. Staff has reviewed the proposed addition for compliance with the architectural character, volumetric design, and height of this structure compared to its neighbors on Lower Main Street. The design complies with the Park City Design Guidelines for Historic Districts and Sites and complements the mass, scale, style, design, and architectural detailing of its neighbors. The mass of the building is largely hidden by breaks in its façade that reflect the typical widths of historic Main Street facades, similar to the design of the surrounding buildings.

The proposed use is similar to the ancillary uses associated with the former Kimball Art Center located on the same site. The private event space will serve as a support facility for the community, providing private event space for meetings and other events throughout the year. The private event space will support the tourism economy of Main Street and bring additional visitors to Old Town.

No unmitigated impacts, as conditioned.

(12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site:

The Private Event Facility includes the interior space on the top level, the outdoor rooftop deck above the historic Kimball Garage, and the balcony along Main and Heber. There are no expected additional impacts on adjacent residents/visitors or Property Off-Site. The applicant anticipates that noise will be similar to the existing use of the building and glare will be minimized based on the site lines and overhang on the Heber Avenue balcony. Staff has added Condition of Approval #22 to mitigate the impacts of any unanticipated light pollution within a year's time of the Certificate of Occupancy.

Additionally, no dust or odor should be created by this use. The applicant anticipates that hours of use will vary depending on the event; however, typical operating hours will be between 8am and midnight. Outdoor speakers and music will be limited to 11am to 10pm in accordance with the City's Noise Ordinance. Staff recommends the following Conditions of Approval to address these issues:

#13. The typical hours of operation shall be limited to 8am to midnight.

#14. The rooftop terrace shall not be used for activities that may create dust or odor, such as but not limited to cooking.

During the November 9, 2016, meeting, the public expressed concern about the amount of noise that could be generated by allowing outdoor events on the proposed roof terrace. The Park City Noise Ordinance prohibits Liquor Licensed Premises, such as this private event space, from creating excess amplified sound. The Municipal Code defines amplified sound as speech, music, and other sound projected or transmitted by electronic equipment including amplifiers, music, or other sound projected or transmitted by electronic equipment including amplifiers, loud speakers, microphones, or similar devices or combinations of devices which are powered by electricity, battery, or combustible fuel and which are intended to increase the volume, range, distance, or intensity of speech, music, or other sound. Staff finds that the following Conditions of Approval should be added to further mitigate noise:

#15. The owner shall not permit or provide either live or recorded amplified music within the interior of the space without first having closed all exterior doors and windows of the licensed premise. Doors may be opened to provide ingress and egress, but shall not be blocked in the open position to provide ventilation. Doors shall be equipped with automatic closing devices to keep them in the closed position except to permit ingress and egress of patrons.

#16. Outdoor speakers shall not cause to exist any loud speaker or sound amplification equipment on the outdoor balcony or rooftop terrace associated with the licensed premises other than speaker systems or sound amplification equipment in conjunction with approved outdoor dining. Music is limited from 11am to 10pm and may not emanate beyond the boundaries of the rooftop terrace or balcony as regulated by the Noise Ordinance.

#17. In accordance with Park City Municipal Code 6-3-9, any violation shall be measured at a distance of at least twenty-five feet (25') from the source of the device upon public property or within the public right-of-way or twenty-five feet (25') from the property line if upon private property, and shall be measured on a decibel or sound level meter of standard design and quality operated on the "A" weighting scale. A measurement of 65 decibels shall be considered to be excessive and unusually loud.

No unmitigated impacts, as conditioned.

(13) Control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas:

*Service and delivery volumes to the building will increase based on the use of the private event space; however the applicant does not anticipate additional trucks or more frequent service than the previous art center, and no additional loading areas are proposed. The applicant has proposed an acceptable screened refuse storage area along the north property line, adjacent to Main Street. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue. **No unmitigated impacts.***

(14) Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities:

The event space is intended to be privately owned and professionally managed. The applicant anticipates that the number of employees will vary from 4 to 40 based on the event; as previously noted, the applicant anticipates events no larger than an occupant load of 480. The applicant has not yet submitted a condo plat application to subdivide the spaces and sell them to private entities, which is reflected in Condition of Approval #18.

In order to ensure the successful operation and management of the Private Event Facility in complying with this Conditional Use Permit, staff has added Condition of Approval #23 in which to permit opportunity for this application to be re-reviewed by the Planning Commission should any additional issues or concerns be found:

#23. In the event that sustained complaints are registered with the City regarding this use, including complaints of glare, noise, smoke, odor, grease, or traffic, the applicant will be required to provide mitigation of the nuisance within 30 days. The Planning Department shall investigate these complaints and take measures necessary to ensure that the property owner complies with the requirements of this permit. Additionally, the Planning Department may bring forward these complaints to the Planning Commission, as deemed necessary by the Planning Director, in order to further mitigate the nuisance. Should the nuisance not be mitigated, the Planning Commission may deem this CUP void.

Complies as Conditioned.

(15) Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site. *The property is located within the Sensitive Lands Ordinance boundary and flood plain Zone A. Staff recommends including a Conditions of Approval regarding the removal of soils and that the building is located in a FEMA flood Zone A (lowest occupied floor shall be at or above the base flood elevation). **No unmitigated impacts, as conditioned.***

(16) Reviewed for consistency with the goals and objectives of the Park City General Plan; however, such review for consistency shall not alone be binding.

*Goal 16 of the General Plan expresses the need to maintain the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors. In addition to investing in the rehabilitation of one of the City's Landmark historic buildings, the private event space will support the tourism industry while also catering to locals needs. The private event space utilize Main Street as a backdrop and setting for the events while also providing an opportunity to draw more locals to Main Street. The events will draw visitors to Main Street, as well, and encourage visitation to the diverse business mix of the street-level commercial uses. The private event space will contribute to our goals of maintaining and enhancing the long term viability of the Historic District. **Complies.***

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notices were mailed to property owners within 300 feet on November 26, 2016. A legal notice was published in the Park Record on October 22 and November 26, 2016. No public input has been received at the time of this report.

Public Comment

Public input was taken as part of the November 9th Planning Commission meeting, see Exhibit 2—Minutes. Staff has also received written public input, included as Exhibit 4.

Alternatives

1. The Planning Commission may approve the Conditional Use Permit for the Private Event Facility as conditioned or amended, or
2. The Planning Commission may deny the Conditional Use Permit for the Private Event Facility and direct staff to make Findings for this decision, or
3. The Planning Commission may continue the discussion on the Conditional Use Permit for Private Event Facility to a date certain to allow the applicant and Staff to provide additional information or analysis.

Significant Impacts

There are no significant fiscal or environmental impacts from this application that have not been mitigated with conditions of approval.

Recommendation

Staff recommends that the Planning Commission holds a public hearing, considers public input, and approves the Conditional Use Permit at 638 Park Avenue for the proposed Private Event Facility pursuant to the findings of fact, conclusions of law, and conditions of approval outlined in this report.

Findings of Fact

1. The Condition Use Permit is for a private event facility at 638 Park Avenue .
2. The property is located in the Historic Recreation Commercial (HRC) District).
3. Per 15-2.5-10 the property is located in the Heber Avenue Subzone; the allowed uses within the sub-zone are identical to the allowed uses of the Historic Commercial Business (HCB) District, and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District.
4. The property is bound by Main Street to the east, Heber Avenue to the south, and Park Avenue to the west. These are all public streets.
5. The Park City Council also approved a Kimball on Main plat amendment for this property at 638 Park Avenue on May 19, 2016. The plat has not yet been recorded.
6. The site is designated as Landmark on the City's Historic Sites Inventory (HSI).
7. The Historic District Design Review (HDDR) for the new development was originally approved on June 20, 2016. The applicant is proposing to rehabilitate the historic Kimball Garage and construct a new addition to the east, fronting Main Street.
8. An appeal of the HDDR was submitted by the Park City Museum and Historical Society on June 30, 2016. The Board of Adjustment met on October 18, 2016, denied the appeal and upheld staff's determination. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, tents, and other temporary structures from detracting from the invisibility of the deck.
9. The BOA found that the rooftop deck addition above the historic Kimball Garage was appropriate as the Design Guidelines permit construction of rooftop additions and the addition would remove one of the two barrel-vaulted roof forms. The addition was permissible because it was generally not visible from the primary public right-of-way along Heber Avenue.
10. On March 20, 2016, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to a Floor Area Ratio (FAR) of 1.5. In 1984, the Kimball Art Center was located in the Historic Commercial Business (HCB) District; however, the zone changed in 2006 to Historic Recreation Commercial (HRC). The proposed FAR of the proposed project with the new addition is 1.45.
11. In 1984, the Kimball Art Center had a Gross Floor Area of approximately 13,477 square feet, which generates an FAR of 0.7. The 0.7 FAR is less than the 1.5 FAR that they paid for as part of the Main Street Parking Special Improvement District.
12. The minimum front/rear yard setbacks are ten feet (10'). The historic structure has a 1-foot front yard setback along Park Avenue and the new addition will have a 12-foot rear yard setback along Main Street.
13. Gross Commercial Floor Area includes all enclosed Areas of the building, but excludes parking areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Commercial Floor Area. Areas

below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Floor Area.

14. Because 638 Park Avenue is located in the Heber Avenue Subzone, the FAR limitation of the HRC District does not apply to gross commercial floor area; however, the parking exception is only for an FAR up to 1.5.
15. The minimum side yard setbacks are five feet (5'); the historic structure currently has a side yard setback of 6 feet along the north property line. The new addition will have a 5-foot setback from the north property line.
16. On corner lots, such as this, the side yard setback that faces a street is ten feet (10'). The historic structure has a 1-foot side yard setback along Heber Avenue; the new addition will have a 10-foot setback along Heber Avenue.
17. Per LMC 15-2.5-4, a project may have only one vehicular Access from Park Avenue, Main Street, Heber Avenue, Swede Alley, or Deer Valley Drive, unless an additional Access is approved by the Planning Commission. The applicant has provided vehicular access along Heber Avenue.
18. Per LMC 15-2.5-5, no structure, including a tent, shall be erected to a height greater than 32 feet from Existing Grade; the height of the roof on the new addition is a maximum of 30.5 feet.
19. Per LMC 15-2.5-5(A)(3), mechanical equipment and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building; the applicant is proposing parapets incorporated into the design of the street front facades in order to reduce the visibility of rooftop mechanical equipment. These parapets do not exceed 4.5 feet in height, for a maximum height of 35 feet above existing grade.
20. Per LMC 15-2.5-5(A)(5), an Elevator Penthouse may extend up to eight feet (8') above the Zone Height. The applicant has proposed an elevator penthouse on the northwest corner of the new addition. The height of the Elevator Penthouse does not exceed 38 feet in height from Existing Grade.
21. Per LMC 15-2.5-6, Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Non-Complying Structures.
22. Per LMC 15-2.5-8, all exterior mechanical equipment must be screened to minimize noise infiltration to adjoining Properties and to eliminate visual impacts on nearby Properties, including those Properties located above the roof tops of Structures in the HRC District. The applicant has proposed to locate mechanical equipment on the rooftop of the new addition, screening it with parapets and other rooftop screening.
23. Per LMC 15-2.5-9, all Development must provide an on-Site refuse collection and loading Area. Refuse and service Areas must be properly Screened and ventilated. Refuse collection Areas may not be located in the required Yards. The applicant has proposed an acceptable refuse storage area along the north property line, adjacent to Main Street.
24. On the third level of the new addition, the applicant is proposing a Private Event Facility. The Private Event Facility will include 3,785 square feet of interior space on the top floor above the street level commercial spaces as well as a 477 square foot outdoor balcony and 2,530 square foot rooftop terrace.

25. The LMC defines this as a facility where the primary Use is for staging, conducting, and holding Private Events. Private Events are events, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend. A Private Event Facility is a Conditional Use in the Heber Avenue Sub-zone and is not permitted in storefronts along Heber, Park, and Main Street.
26. The Private Event Facility will be accessible from a street-level lobby along Heber Avenue. Access, circulation, and lobby areas are permitted within Storefront property.
27. In 2015, the Kimball hosted an event with an occupant load of 697 people. The applicant finds that the proposed Private Event Facility will have an occupancy load of 480 people, a 32% reduction from past event occupancy loads.
28. Special Events, as defined by the LMC, are those events, public or private, with either public or private venues, requiring City licensing beyond the scope of normal Business and/or liquor regulations or creates public impacts through any of the following: (A) Use of City personnel; (B) Impacts via disturbance to adjacent residents; (C) Traffic/parking; (D) Disruption of the normal routine of the community or affected neighborhood; or (E) Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.
29. There is no vehicular access proposed. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue.
30. Outdoor use of the terraces and balconies are permitted by this CUP, and shall comply with all conditions and regulations included herein.
31. Any temporary structures, such as tents, are permitted by this CUP, and shall comply with all conditions and regulations included herein.
32. The Building Department will require a fire permit for the installation of any tent in excess of 400 square feet, measured from the outside dimensions.
33. The applicant anticipates that hours of use will vary depending on the event; however, typical operating hours will be between 8am and midnight. Outdoor speakers and music will be limited to 11am to 10pm in accordance with the City's Noise Ordinance.
34. There are no open space requirements specified for this development.
35. The design complies with the Park City Design Guidelines for Historic Districts and Sites and complements the mass, scale, style, design, and architectural detailing of its neighbors.
36. The applicant has proposed an acceptable screened refuse storage area along the north property line, adjacent to Main Street. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue.
37. The event space is intended to be privately owned and professionally managed. The applicant anticipates that the number of employees will vary from 4 to 40 based on the event; as previously noted, the applicant anticipates events no larger than an occupant load of 480.

38. The site is located within the Park City Soils Ordinance boundary and FEMA flood Zone A.
39. The site is located in a FEMA flood Zone A.
40. The CUP application was deemed complete on September 28, 2016 upon receipt of additional materials.
41. The proposed conditional use meets the criteria set forth in LMC 15-1-10(E).
42. The staff findings in the Analysis section of this report are incorporated herein.

Conclusions of Law

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

Conditions of Approval

1. All standard conditions of approval apply to this Conditional Use Permit for a Private Event Facility as well as a temporary tent.
2. Should the owner host an event in the Private Event Facility that goes beyond the Private Event Facility Use and the Conditions of Approval outlined in this CUP, a Special Event permit may be required.
3. Guests and patrons using the Private Event Facility shall abide by the same parking and access restrictions as other visitors to Main Street.
4. The applicant, at its cost, shall incorporate such measures to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the events will be conducted with due regard for safety are provided and paid for by the applicant.
5. The owner shall orient the activities so as to minimize sound impacts to the neighborhoods and the applicant shall monitor the following:
 - a. The owner, or his/her designee, shall provide on-site management for each aspect of the event.
 - b. The owner shall be responsible to ensure that the sound system maintains level adjustments not to exceed provisions of the Park City Noise Ordinance for the outdoor use.
6. All exterior signs require a separate sign permit reviewed by the Planning and Building Departments and multi-tenant buildings require a Master Sign Plan.
7. The final building plans and construction details for the project shall meet substantial compliance with the HDDR approved on June 20, 2016 and the drawings reviewed by the Planning Commission on November 9, 2016.
8. Utility and grading plans, including storm water drainage plans, must be approved by the City Engineer prior to Building Permit issuance.
9. A Utility Plan must be provided at the time of the building permit application showing the location of dry facilities on the property to ensure that the location of transformers and other utility infrastructure on the property can be adequately screened and written approval from the utility company is provided indicating that

are satisfying this condition

10. All exterior mechanical equipment shall be painted and/or otherwise screened and shielded from public streets. All wall and roof top vents and protruding mechanical shall be painted to match the adjacent wall or roof and/or screened from public view.
11. The use of umbrellas, portable heaters, and similar improvements may be used during an event; however, they shall not be permanently stored on the rooftop terrace or visible from the public right-of-way except when in use during the private event.
12. Any proposed tent shall comply with the following regulations:
 - a. The tent shall not increase the occupancy of the existing building.
 - b. The tent shall be setback from the parapet along Heber Avenue and the south edge of the roof terrace in order to limit its visibility and mass from the street.
 - c. The tent shall be solid in color; however, it may have some clear openings such as windows or doors. The colors and materials of the tent shall complement the building and shall not contain reflective material.
 - d. The tent shall be no more than fifteen feet (15') in height.
 - e. The tent's installation and/or disassembly shall not require the use of any machinery such as cranes, compressors, or generators. Hand portable air compressors may be used to operate power tools as necessary.
 - f. The tent shall not be erected for more than four (4) consecutive days up to fifteen (15) times per year (including setup and removal), except for the once a year in which the tent shall be allowed to be erected for ten (10) days (including setup and removal). The number of days the tent is up shall not exceed 70 days, as required by LMC 15-4-16.
 - g. The applicant is responsible for coordinating the necessary building permits with the Building Department for all plans for tents.
13. The typical hours of operation shall be limited to 8am to midnight.
14. The rooftop terrace shall not be used for activities that may create dust or odor, such as but not limited to cooking.
15. The owner shall not permit or provide either live or recorded amplified music within the interior of the space without first having closed all exterior doors and windows of the licensed premise. Doors may be opened to provide ingress and egress, but shall not be blocked in the open position to provide ventilation. Doors shall be equipped with automatic closing devices to keep them in the closed position except to permit ingress and egress of patrons.
16. Outdoor speakers shall not cause to exist any loud speaker or sound amplification equipment on the outdoor balcony or rooftop terrace associated with the licensed premises other than speaker systems or sound amplification equipment in conjunction with approved outdoor dining. Music is limited from 11am to 10pm and may not emanate beyond the boundaries of the rooftop terrace or balcony as regulated by the Noise Ordinance.
17. In accordance with Park City Municipal Code 6-3-9, any violation shall be measured at a distance of at least twenty-five feet (25') from the source of the device upon public property or within the public right-of-way or twenty-five feet

(25') from the property line if upon private property, and shall be measured on a decibel or sound level meter of standard design and quality operated on the "A" weighting scale. A measurement of 65 decibels shall be considered to be excessive and unusually loud.

18. The applicant must submit a condo plat in order to sell any of the individual retail/commercial units.
19. A final Construction Mitigation Plan must be approved by the Planning and Building Departments prior to issuance of a building permit.
20. All projects within the Soils Ordinance Boundary require a Soil Mitigation Plan to be submitted and approved by the Building and Planning Departments prior to issuance of a Building Permit.
21. Property is located in a FEMA flood Zone A. The lowest occupied floor shall be at or above the base flood elevation. Additionally, an H and H study must be completed showing the impacts to the flood plain. Any changes to the flood plain by 12 inches or more will require the filing of a LOMR.
22. All exterior lighting, including any existing lighting and lighting on the balcony and terrace, shall comply with the Lighting Requirements of LMC 15-5-5(I). The lighting shall be downward directed and fully shielded. Exterior lighting shall be approved by the Planning Department prior to installation.
23. In the event that sustained complaints are registered with the City regarding this use, including complaints of glare, noise, smoke, odor, grease, or traffic, the applicant will be required to provide mitigation of the nuisance within 30 days. The Planning Department shall investigate these complaints and take measures necessary to ensure that the property owner complies with the requirements of this permit. Additionally, the Planning Department may bring forward these complaints to the Planning Commission, as deemed necessary by the Planning Director, in order to further mitigate the nuisance. Should the nuisance not be mitigated, the Planning Commission may deem this CUP void.

Exhibits

- Exhibit 1 –11.9.16 Planning Commission Report + Exhibits
- Exhibit 2 –11.9.16 Planning Commission Minutes
- Exhibit 3 –Tent Specifications & Rendering
- Exhibit 4 – Public Comment

Planning Commission Staff Report



Application: PL-16-03313
Subject: Historic Kimball Garage- 638 Park Avenue
Author: Anya Grahn, Historic Preservation Planner
Date: November 9, 2016
Type of Item: Administrative - Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission holds a public hearing, considers public input, and approves the Conditional Use Permit at 638 Park Avenue for the proposed Private Event Facility pursuant to the findings of fact, conclusions of law, and conditions of approval outlined in this report.

Description

Applicant: CPP Kimball LLC represented by Tony Tyler
Location: Historic Kimball Garage at 638 Park Avenue
Zoning: Historic Recreation Commercial (HRC), Heber Avenue Subzone
Adjacent Land Uses: Residential single-family and multi-family; commercial

Summary of Proposal

On September 19, 2016, the Planning Department received an application for a Conditional Use Permit (CUP) for a Private Event Facility at 638 Park Avenue. The applicant is proposing to rehabilitate the existing historic building for Retail and other Commercial uses and add a new addition to the east, adjacent to Main Street. The upper level of the addition will be reserved for a Private Event Facility.

Background

On September 19, 2016, the Park City Planning Department received a Conditional Use Permit (CUP) application requesting approval of a Private Event Facility at 638 Park Avenue; the application was deemed complete on September 28, 2016. The space will be on the top level of the new addition bordering Heber Avenue and Main Street proposed for the historic Kimball Garage. There will be 3,785 square feet of event space, connected to a lobby and warming kitchen, as well as access to a 477 square foot outdoor balcony overlooking the Heber Avenue-Main Street corner and a second level 2,530 square foot rooftop terrace over the historic Kimball Garage. Both the balcony and the terrace will be used as part of the Private Event Facility. The remainder of the rehabilitated historic structure and new development will be divided into commercial spaces on the lower levels.

The Historic District Design Review (HDDR) for the new development was originally approved on June 20, 2016; an appeal of the HDDR was submitted by the Park City

Museum and Historical Society on June 30, 2016. The Board of Adjustment met on October 18, 2016, denied the appeal and upheld staff's determination ([Staff Report](#), page 23; Draft Minutes—Exhibit E). The Park City Museum had objected to a number of issues, one being the removal of one of the two (2) barrel vaults forming the roof of the building; however, the BOA found that the removal complied with the Design Guidelines as rooftop additions are permitted on commercial buildings in the Main Street National Register District, of which the Kimball Garage is a part of. Further, because the barrel was not visible from the rights-of-way, it was appropriate to remove it to accommodate the rooftop deck addition which will sit below the parapet and will generally not be visible from the Heber Avenue right-of-way.

The BOA stressed that the rooftop terrace addition was largely permissible because it would generally not be visible from the Heber Avenue right-of-way. As designed, the rooftop terrace will be setback from the Heber Avenue façade of the building in order to minimize the visibility of the necessary railing from street view. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, tents, and other temporary structures from detracting from the invisibility of the deck. (See Exhibit E, BOA Draft Minutes 10.18.16)

The Park City Council also approved a Kimball on Main plat amendment for this property at 638 Park Avenue on May 19, 2016. The plat has not yet been recorded as the applicant is working with the City to dedicate sidewalk easements.

On March 20, 2016, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to a Floor Area Ratio (FAR) of 1.5. It is important to note that in 1984, the Kimball Art Center was located in the Historic Commercial Business (HCB) District; however, the zone changed in 2006 to Historic Recreation Commercial (HRC). The property is currently in the Heber Avenue Subzone of the HRC District. The proposed FAR of the proposed project with the new addition is 1.45.

Purposes of the Historic Recreation Commercial (HRC) District:

- A. maintain and enhance characteristics of Historic Streetscape elements such as yards, trees, vegetation, and porches,
- B. encourage pedestrian oriented, pedestrian-scale Development,
- C. minimize visual impacts of automobiles and parking,
- D. preserve and enhance landscaping and public spaces adjacent to Streets and thoroughfares,
- E. provide a transition in scale and land Uses between the HR-1 and HCB Districts that retains the character of Historic Buildings in the Area,
- F. provide a moderate Density bed base at the Town Lift,
- G. allow for limited retail and Commercial Uses consistent with resort bed base and the needs of the local community,
- H. encourage preservation and rehabilitation of Historic Buildings and resources.
- I. maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages

a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

Project Description

The applicant is proposing to rehabilitate the historic Kimball Garage and construct a new addition to the east, fronting Main Street. The Historic District Design Review (HDDR) for the proposed development was approved on June 20, 2016; appealed by the Park City Historical Society & Museum on June 30, 2016; and staff's determination was upheld by the Board of Adjustment on October 18, 2016.

The historic Kimball Garage and the new addition will be broken into seven (7) retail spaces on the lower level of the new addition as well as the main level of the Kimball Garage and new addition. Because this property is located in the Heber Avenue Subzone, the allowed uses within the sub-zone are identical to the allowed uses of the Historic Commercial Business (HCB) District, and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District. Commercial Retail and Service, Minor; Restaurant; and Bar are allowed uses in the Heber Avenue Subzone.

On the third level of the new addition, the applicant is proposing a Private Event Facility which includes access to a balcony and rooftop terrace. The LMC defines this as a facility where the primary Use is for staging, conducting, and holding Private Events. Private Events are events, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend. A Private Event Facility is a Conditional Use in the Heber Avenue Sub-zone and is not permitted in storefronts along Heber, Park, and Main Street.

The Private Event Facility will be 3,785 square feet on the top floor above the street level commercial spaces as well as the adjacent rooftop terrace, and it will be accessible from an elevator and stair lobby that connects with an entrance on Heber Avenue. The event space spills out onto a 477 square foot balcony that wraps the façade of the new addition along Heber Avenue and Main Street. A second level roof terrace of 2,530 square feet is proposed over the roof of the historic Kimball Garage. The CUP addresses the interior private event space as well as the rooftop terrace and balcony.

Land Management Code (LMC) Analysis

The proposal complies with lot and site requirements of the HRC Zoning District as described in the table below:

Required	HRC Zone Designation	Proposed
Lot size	Not specified	18,550.13 SF
Setbacks		
Front (West/Park Ave.)	10 feet	.25 feet ²
Rear (East/Main St.)	10 feet	12 feet

Side (South/Heber Ave.) Side (North)	10 feet ¹ 5 feet	1 foot ² 6 feet
Height above existing grade	32 feet	30.5 feet
Floor Area Ratio	Floor Area Ratio (FAR) limitation of the HRC District does not apply. ³	1.45 FAR (Total of existing Kimball and New Addition); Existing 0.7
Parking	Exempt from parking up to an overall for both the historic and new FAR of 1.5 ¹	0 spots; applicant is proposing an FAR of 1.45

¹This is based on the Planning Director's Determination Letter, March 20, 2016

²Per LMC 15-2.5-6 Historic Structures that do not comply with Building Height, Building Setbacks, Off-Street parking, and driveway location standards are valid Non-complying Structures.

³Per LMC 15-2.5-10, within the Heber Avenue Sub-zone, all of the Site Development Standards and land use limitations of the HRC apply, except (A) the Allowed Uses within the sub-zones are identical to the Allowed Uses in the HCB District; (B) the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District; and (C) the Floor Area Ratio limitation of the HRC District does not apply.

On March 20, 2015, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to a Floor Area Ratio (FAR) of 1.5, which is the parking requirement of the HCB District outlined in LMC 15-2.6-9(D) Pre-1984 Parking Exception. It should be noted that in 1984, the Kimball Art Center was located in the Historic Commercial Business (HCB) District; however, the zone changed in 2006 to Historic Recreation Commercial (HRC). In 1984, the Kimball Art Center had a Gross Floor Area of approximately 13,477 square feet, which generates an FAR of 0.7. The 0.7 FAR is less than the 1.5 FAR that they paid for as part of the Main Street Parking Special Improvement District. As such, the existing building and new addition could be constructed to create an FAR of 1.5 without requiring the applicant to provide parking; an FAR of over 1.5 would have required the applicant to provide parking for the gross floor area exceeding the 1.5 FAR.

Following rehabilitation of the existing Kimball Garage and construction of an addition along Main Street, the applicant is proposing a non-residential FAR of 1.45. Gross Commercial Floor Area includes all enclosed Areas of the building, but excludes parking areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Commercial Floor Area. Areas below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Floor Area. Because 638 Park Avenue is located in the Heber Avenue Subzone, the FAR limitation of the HRC District does not apply to gross commercial floor area; however, the parking exception is only for an FAR up to 1.5.

As previously noted, Gross Commercial FAR only includes enclosed Areas; unenclosed balconies, patios and decks are not included in the Gross Commercial Floor Area. Though the rooftop terrace and balcony will be used as part of the Private Event Space, it will not impact the parking requirement analysis as these areas are not included in the Gross Commercial FAR calculation.

In the past, the Planning Department has not required additional parking for the use of outdoor spaces such as balconies that are used for outdoor dining. The reasoning behind this is that people are more likely to sit outside during warm weather than sit inside, and thus the restaurant's capacity has not changed. The applicant finds that the maximum capacity of the space will be approximately 480 occupants, and it anticipates that event goers will be moving between the interior private event space, the balcony, and the rooftop terrace.

Analysis of Conditional Use Criteria

Conditional Uses are subject to review according to the following criteria set forth in the LMC 15-1-10(E). Staff's analysis is in *italics*.

(1) Size and location of the Site;

*The property consists of 18,550.13 square feet of lot area and is currently developed with the 13,477 square foot historic Kimball Garage building. The applicant is proposing to construct a 19,381 square foot addition proposed on the east side of the existing building. The new addition will include a second level balcony that wraps the corner of the addition along Heber Avenue and Main Street as well as a new roof terrace above the existing Kimball Garage. The addition complies with setbacks, height, and density and is appropriate for the size and location of the Site. **No unmitigated impacts.***

(2) Traffic considerations including capacity of the existing Streets in the Area;

The property is currently accessed by Main Street along its east side, Heber Avenue along the south side, and Park Avenue along the west side. The previous owners of the building—the Kimball Art Center—regularly used the entire building and adjacent plaza area on the southeast corner of the site for events, approved through Special Events permits. Because the current owner will be reducing the overall size of the event space compared to that of the previous owners, they did not conduct a transportation study as they found there would be reduced demand based on the size of the proposed event space.

Staff has met with the Building Department to discuss occupancy load. The occupancy load is based off of square footage, number of sanitation fixtures, and the seating plan. In talking with the Park City Fire Marshall, the exterior spaces would not necessarily be included in the occupancy load. Should they be enclosed, they would then need to be reviewed to determine a safe occupancy load. In 2015, the Kimball hosted an event with an occupant load of 697 people. The applicant finds that the proposed Private Event Facility will have an occupancy load of 480 people, a 32% reduction from past event occupancy loads.

Staff does not anticipate that the new event space will generate additional traffic to the site, compared to that of the Kimball Art Center's past events. Many of the applicant's anticipated events—meetings, cocktail receptions, weddings, etc.—will likely not meet the maximum occupancy load of the space; however, others will.

Special Events, as defined by the LMC, are those events, public or private, with either public or private venues, requiring City licensing beyond the scope of normal Business and/or liquor regulations or creates public impacts through any of the following:

- A. Use of City personnel;*
- B. Impacts via disturbance to adjacent residents;*
- C. Traffic/parking;*
- D. Disruption of the normal routine of the community or affected neighborhood; or*
- E. Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.*

Should the applicant host an event in the Private Event Facility that goes beyond the Private Event Facility Use and the Conditions of Approval outlined in this CUP, a Special Event permit may be required. Staff has added this as Condition of Approval #2.

No unmitigated impacts, as conditioned.

(3) Utility capacity:

A final approved storm water, utility, and grading plan is required prior to issuance of a building permit. All above ground utility infrastructure (transformers, ground sleeves, telephone boxes, cable boxes, etc.) are to be located on the property and behind the new addition, on the northwest corner of the site. The applicant has proposed to install mechanical equipment and utilities, such as heating and air conditioning units, on the rooftop of the new addition. The transformer will be located to the west of the new addition, in the rear yard.

Staff recommends Condition of Approval #6 requiring that a Utility Plan must be provided at the time of the building permit application showing the location of dry facilities on the property to ensure that the location of transformers and other utility infrastructure on the property can be adequately screened and written approval from the utility company is provided indicating that are satisfying this condition. Condition of Approval #7 addresses the screening of any ground-level or rooftop equipment from public view.

No unmitigated impacts, as conditioned.

(4) Emergency vehicle Access;

*Primary emergency access for the building is from Main Street, Heber Avenue, and Park Avenue. The entrance to the upper level event space will be limited to a lobby located along Heber Avenue. **No unmitigated impacts.***

(5) Location and amount of off-Street parking;

*As previously noted, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to an FAR of 1.5; the applicant is proposing a total FAR of 1.45 following completion of the new addition. Any traffic generated by the private event facility will likely find parking in one of the City's public parking lots such as the Flagpole lot or China Bridge, along Park Avenue, or in one of the nearby private parking garages at Summit Watch, Gateway Mall, or the Town Lift. The applicant anticipates that most event attendees will be shuttled from off-street lodging or will be lodging in Old Town. **No unmitigated impacts.***

(6) Internal vehicular and pedestrian circulation system;

*The upper level Private Event Facility will be accessed from Heber Avenue. Event attendees will enter a lobby with stairs and an elevator that lead to the upper level event space. (Access, circulation, and lobby areas are permitted within Storefront property.) There is no vehicular access proposed. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue. **No unmitigated impacts.***

(7) Fencing, Screening, and landscaping to separate the Use from adjoining Uses;

*The use is consistent with neighboring structures as it primarily faces Main Street and Heber Avenue. The upper level event space will feature a balcony that wraps around the Heber Avenue and Main Street façade of the new addition and overlooks the Main Street and Heber Avenue intersection. On the west side, the event space will lead out onto a rooftop terrace above the historic Kimball Garage. The roof terrace is setback from the parapet of the historic building in order to minimize its appearance but also further separate it from neighboring uses. On the west side, the roof terrace will be separated from the residential neighborhood along Park and Woodside by the barrel-vault roof of the Kimball. As previously noted, any outdoor dining or outdoor event use of the balcony will require an Administrative-CUP. **No unmitigated impacts.***

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

The historic Kimball Garage is a horizontally-oriented one-story brick block structure that consumes nearly half of the property. The new addition complements the visual and physical qualities of the historic building. Building components and materials used on the new addition, such as the proposed wood and brick materials as well as the windows and doors, are of scale and size to those found on the original building. Window shapes, patterns, and proportions found on the historic building are reflected in the new addition. The addition is visually separated from the historic building on the Heber Avenue façade by a transitional element and its change of materials; this is not an in-line addition. Though the historic building is characterized by its large, low mass,

the new addition has been broken up to reflect the general width of buildings on lower Main Street and complement the rhythm and pattern of the streetscape. Additionally, the lower level commercial spaces will maintain the Heber Avenue and Main Street-orientation of the buildings.

The BOA found that the proposed removal of one of the barrel-vaulted roof forms to accommodate the rooftop terrace was appropriate largely because the terrace would not be visible from the public right-of-way. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, heaters, tents, and other temporary structures from detracting from the invisibility of the deck. Staff finds that the use of umbrellas, portable heaters, and similar improvements may be used during an event; however, they shall not be permanently stored on the rooftop terrace or visible from the public right-of-way except when in use as indicated by Condition of Approval #8.

Any temporary structures, such as tents will require an Administrative Conditional Use Permit (CUP) which will permit staff to review the requests on a case-by-case basis and evaluate the impacts of the tents on the rooftop terrace. Further, LMC 15-4-6 Temporary Structures, Tents, and Vendors, only allow tents and other temporary structures to be installed for a duration no longer than 14 days and no more than 5 times per year on the same Property or Site. As previously discussed, the Building Department will have to re-evaluate the space's occupancy load should a tent be installed on the rooftop terrace based on the space's sanitation facilities, seating, food service/handling, snow removal, etc. At time of the Admin-CUP application, staff will review the size of the tent and mitigate its visibility by ensuring that the tent is setback from the edge of the roof deck along Heber Avenue.

No unmitigated impacts, as conditioned.

(9) Usable Open Space:

*There are no open space requirements specified for this development. The property meets the required front, rear, and side yard setbacks except for the historic property. Per LMC 15-2.5-6 historic structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid non-complying structures. The lot is 18,550 square feet and the total building footprint is 13,260 square feet, which leaves 5,290 square feet of footprint. Staff finds that approximately 28.5% of the lot is open space. **No unmitigated impacts.***

(10) Signs and lighting:

*All new signs and exterior lighting must be in conformance with the Park City codes and the Design Guidelines for Historic Districts and Historic Sites. Signs require a separate sign permit issued by the City. All exterior lighting is designed to be down directed and shielded. Any existing exterior lighting not in compliance with the Code shall be modified prior to final certificate of occupancy. **No unmitigated impacts, as conditioned.***

(11) Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;

Lower Main Street is characterized by large multi-story mixed use developments containing commercial and residential condominium uses. The physical design of the new development is consistent with the surrounding larger-scale developments such as the Town Lift and Summit Watch. Staff has reviewed the proposed addition for compliance with the architectural character, volumetric design, and height of this structure compared to its neighbors on Lower Main Street. The design complies with the Park City Design Guidelines for Historic Districts and Sites and complements the mass, scale, style, design, and architectural detailing of its neighbors. The mass of the building is largely hidden by breaks in its façade that reflect the typical widths of historic Main Street facades, similar to the design of the surrounding buildings.

The proposed use is similar to the ancillary uses associated with the former Kimball Art Center located on the same site. The private event space will serve as a support facility for the community, providing private event space for meetings and other events throughout the year. The private event space will support the tourism economy of Main Street and bring additional visitors to Old Town.

No unmitigated impacts, as conditioned.

(12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;

*All uses, with the exception of the outdoor roof deck and balcony along Main and Heber, are located inside the new addition and there are no expected additional impacts on adjacent residents/visitors or Property Off-Site. The applicant anticipates that noise will be similar to the existing use of the building and glare will be minimized based on the site lines and overhang on the Heber Avenue balcony. Staff has added Condition of Approval #15 to mitigate the impacts of any unanticipated light pollution within a year's time of the Certificate of Occupancy. Additionally, no dust or odor should be created by this use. The applicant anticipates that hours of use will vary depending on the event; however, typical operating hours will be between 8am and midnight. Outdoor speakers and music will be limited to 11am to 10pm in accordance with the City's Noise Ordinance. Staff recommends conditions of approval related to the hours of use. **No unmitigated impacts, as conditioned.***

(13) Control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas;

*Service and delivery volumes to the building will increase based on the use of the private event space; however the applicant does not anticipate additional trucks or more frequent service than the previous art center, and no additional loading areas are proposed. The applicant has proposed an acceptable screened refuse storage area along the north property line, adjacent to Main Street. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue. **No unmitigated impacts.***

(14) Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;

The event space is intended to be privately owned and professionally managed. The applicant anticipates that the number of employees will vary from 4 to 40 based on the event; as previously noted, the applicant anticipates events no larger than an occupant load of 480. The applicant has not yet submitted a condo plat application to subdivide the spaces and sell them to private entities, which is reflected in Condition of Approval #9 **No unmitigated impacts.**

(15) Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site.

The property is located within the Sensitive Lands Ordinance boundary and flood plain Zone A. Staff recommends including a Conditions of Approval regarding the removal of soils and that the building is located in a FEMA flood Zone A (lowest occupied floor shall be at or above the base flood elevation). **No unmitigated impacts, as conditioned.**

(16) Reviewed for consistency with the goals and objectives of the Park City General Plan; however, such review for consistency shall not alone be binding.

Goal 16 of the General Plan expresses the need to maintain the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors. In addition to investing in the rehabilitation of one of the City's Landmark historic buildings, the private event space will support the tourism industry while also catering to locals needs. The private event space utilize Main Street as a backdrop and setting for the events while also providing an opportunity to draw more locals to Main Street. The events will draw visitors to Main Street, as well, and encourage visitation to the diverse business mix of the street-level commercial uses. The private event space will contribute to our goals of maintaining and enhancing the long term viability of the Historic District. **Complies.**

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notices were mailed to property owners within 300 feet on November 26, 2016. A legal notice was published in the Park Record on October 22, 2016. No public input has been received at the time of this report.

Alternatives

1. The Planning Commission may approve the Conditional Use Permit for the Private Event Facility as conditioned or amended, or
2. The Planning Commission may deny the Conditional Use Permit for the Private

- Event Facility and direct staff to make Findings for this decision, or
3. The Planning Commission may continue the discussion on the Conditional Use Permit for Private Event Facility to a date certain to allow the applicant and Staff to provide additional information or analysis.

Significant Impacts

There are no significant fiscal or environmental impacts from this application that have not been mitigated with conditions of approval.

Recommendation

Staff recommends that the Planning Commission holds a public hearing, considers public input, and approves the Conditional Use Permit at 638 Park Avenue for the proposed Private Event Facility pursuant to the findings of fact, conclusions of law, and conditions of approval outlined in this report.

Findings of Fact

1. The Condition Use Permit is for a private event facility at 638 Park Avenue.
2. The property is located in the Historic Recreation Commercial (HRC) District).
3. Per 15-2.5-10he property is located in the Heber Avenue Subzone; the allowed uses within the sub-zone are identical to the allowed uses of the Historic Commercial Business (HCB) District, and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District.
4. The property is bound by Main Street to the east, Heber Avenue to the south, and Park Avenue to the west. These are all public streets.
5. The Park City Council also approved a Kimball on Main plat amendment for this property at 638 Park Avenue on May 19, 2016. The plat has not yet been recorded.
6. The site is designated as Landmark on the City's Historic Sites Inventory (HSI).
7. The Historic District Design Review (HDDR) for the new development was originally approved on June 20, 2016. The applicant is proposing to rehabilitate the historic Kimball Garage and construct a new addition to the east, fronting Main Street.
8. An appeal of the HDDR was submitted by the Park City Museum and Historical Society on June 30, 2016. The Board of Adjustment met on October 18, 2016, denied the appeal and upheld staff's determination. The BOA recommended that the Planning Department and the applicant propose rules to regulate the rooftop deck and prevent umbrellas, tents, and other temporary structures from detracting from the invisibility of the deck.
9. The BOA found that the rooftop deck addition above the historic Kimball Garage was appropriate as the Design Guidelines permit construction of rooftop additions and the addition would remove one of the two barrel-vaulted roof forms. The addition was permissible because it was generally not visible from the primary public right-of-way along Heber Avenue.
10. On March 20, 2016, the Planning Director found that the Kimball Art Center was current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, for parking requirements up to a Floor Area Ratio

(FAR) of 1.5. In 1984, the Kimball Art Center was located in the Historic Commercial Business (HCB) District; however, the zone changed in 2006 to Historic Recreation Commercial (HRC). The proposed FAR of the proposed project with the new addition is 1.45.

11. In 1984, the Kimball Art Center had a Gross Floor Area of approximately 13,477 square feet, which generates an FAR of 0.7. The 0.7 FAR is less than the 1.5 FAR that they paid for as part of the Main Street Parking Special Improvement District.
12. The minimum front/rear yard setbacks are ten feet (10'). The historic structure has a 1-foot front yard setback along Park Avenue and the new addition will have a 12-foot rear yard setback along Main Street.
13. Gross Commercial Floor Area includes all enclosed Areas of the building, but excludes parking areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Commercial Floor Area. Areas below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Floor Area.
14. Because 638 Park Avenue is located in the Heber Avenue Subzone, the FAR limitation of the HRC District does not apply to gross commercial floor area; however, the parking exception is only for an FAR up to 1.5.
15. The minimum side yard setbacks are five feet (5'); the historic structure currently has a side yard setback of 6 feet along the north property line. The new addition will have a 5-foot setback from the north property line.
16. On corner lots, such as this, the side yard setback that faces a street is ten feet (10'). The historic structure has a 1-foot side yard setback along Heber Avenue; the new addition will have a 10-foot setback along Heber Avenue.
17. Per LMC 15-2.5-4, a project may have only one vehicular Access from Park Avenue, Main Street, Heber Avenue, Swede Alley, or Deer Valley Drive, unless an additional Access is approved by the Planning Commission. The applicant has provided vehicular access along Heber Avenue.
18. Per LMC 15-2.5-5, no structure shall be erected to a height greater than 32 feet from Existing Grade; the height of the roof on the new addition is a maximum of 30.5 feet.
19. Per LMC 15-2.5-5(A)(3), mechanical equipment and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building; the applicant is proposing parapets incorporated into the design of the street front facades in order to reduce the visibility of rooftop mechanical equipment. These parapets do not exceed 4.5 feet in height, for a maximum height of 35 feet above existing grade.
20. Per LMC 15-2.5-5(A)(5), an Elevator Penthouse may extend up to eight feet (8') above the Zone Height. The applicant has proposed an elevator penthouse on the northwest corner of the new addition. The height of the Elevator Penthouse does not exceed 38 feet in height from Existing Grade.
21. Per LMC 15-2.5-6, Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Non-Complying Structures.

22. Per LMC 15-2.5-8, all exterior mechanical equipment must be screened to minimize noise infiltration to adjoining Properties and to eliminate visual impacts on nearby Properties, including those Properties located above the roof tops of Structures in the HRC District. The applicant has proposed to locate mechanical equipment on the rooftop of the new addition, screening it with parapets and other rooftop screening.
23. Per LMC 15-2.5-9, all Development must provide an on-Site refuse collection and loading Area. Refuse and service Areas must be properly Screened and ventilated. Refuse collection Areas may not be located in the required Yards. The applicant has proposed an acceptable refuse storage area along the north property line, adjacent to Main Street.
24. On the third level of the new addition, the applicant is proposing a Private Event Facility. The Private Event Facility will be 3,785 square feet on the top floor above the street level commercial spaces as well as a 477 square foot outdoor balcony and 2,530 square foot rooftop terrace.
25. The LMC defines this as a facility where the primary Use is for staging, conducting, and holding Private Events. Private Events are events, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend. A Private Event Facility is a Conditional Use in the Heber Avenue Sub-zone and is not permitted in storefronts along Heber, Park, and Main Street.
26. The Private Event Facility will be accessible from a street-level lobby along Heber Avenue. Access, circulation, and lobby areas are permitted within Storefront property.
27. In 2015, the Kimball hosted an event with an occupant load of 697 people. The applicant finds that the proposed Private Event Facility will have an occupancy load of 480 people, a 32% reduction from past event occupancy loads.
28. Special Events, as defined by the LMC, are those events, public or private, with either public or private venues, requiring City licensing beyond the scope of normal Business and/or liquor regulations or creates public impacts through any of the following: (A) Use of City personnel; (B) Impacts via disturbance to adjacent residents; (C) Traffic/parking; (D) Disruption of the normal routine of the community or affected neighborhood; or (E) Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.
29. There is no vehicular access proposed. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue.
30. Any temporary structures, such as tents will require an Administrative Conditional Use Permit (CUP) in accordance with LMC 15-4-6.
31. The applicant anticipates that hours of use will vary depending on the event; however, typical operating hours will be between 8am and midnight. Outdoor speakers and music will be limited to 11am to 10pm in accordance with the City's Noise Ordinance.

32. There are no open space requirements specified for this development.
33. The design complies with the Park City Design Guidelines for Historic Districts and Sites and complements the mass, scale, style, design, and architectural detailing of its neighbors.
34. The applicant has proposed an acceptable screened refuse storage area along the north property line, adjacent to Main Street. Delivery, loading, and unloading zones for the private event facility will be limited to Heber Avenue.
35. The event space is intended to be privately owned and professionally managed. The applicant anticipates that the number of employees will vary from 4 to 40 based on the event; as previously noted, the applicant anticipates events no larger than an occupant load of 480.
36. The site is located within the Park City Soils Ordinance boundary and FEMA flood Zone A.
37. The site is located in a FEMA flood Zone A.
38. The CUP application was deemed complete on September 28, 2016 upon receipt of additional materials.
39. The proposed conditional use meets the criteria set forth in LMC 15-1-10(E).
40. The staff findings in the Analysis section of this report are incorporated herein.

Conclusions of Law

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

Conditions of Approval

1. All standard conditions of approval apply to this Conditional Use Permit.
2. Should the applicant host an event in the Private Event Facility that goes beyond the Private Event Facility Use and the Conditions of Approval outlined in this CUP, a Special Event permit may be required.
3. All exterior signs require a separate sign permit reviewed by the Planning and Building Departments and multi-tenant buildings require a Master Sign Plan.
4. The final building plans and construction details for the project shall meet substantial compliance with the HDDR approved on June 20, 2016 and the drawings reviewed by the Planning Commission on November 9, 2016.
5. Utility and grading plans, including storm water drainage plans, must be approved by the City Engineer prior to Building Permit issuance.
6. A Utility Plan must be provided at the time of the building permit application showing the location of dry facilities on the property to ensure that the location of transformers and other utility infrastructure on the property can be adequately screened and written approval from the utility company is provided indicating that are satisfying this condition
7. All exterior mechanical equipment shall be painted and/or otherwise screened and shielded from public streets. All wall and roof top vents and protruding

mechanical shall be painted to match the adjacent wall or roof and/or screened from public view.

8. The use of umbrellas, portable heaters, and similar improvements may be used during an event; however, they shall not be permanently stored on the rooftop terrace or visible from the public right-of-way except when in use during the private event.
9. The applicant must submit a condo plat in order to sell any of the individual retail/commercial units.
10. A final Construction Mitigation Plan must be approved by the Planning and Building Departments prior to issuance of a building permit.
11. All projects within the Soils Ordinance Boundary require a Soil Mitigation Plan to be submitted and approved by the Building and Planning Departments prior to issuance of a Building Permit.
12. Property is located in a FEMA flood Zone A. The lowest occupied floor shall be at or above the base flood elevation. Additionally, an H and H study must be completed showing the impacts to the flood plain. Any changes to the flood plain by 12 inches or more will require the filing of a LOMR.
13. All exterior lighting, including any existing lighting and lighting on the balcony and terrace, shall comply with the Lighting Requirements of LMC 15-5-5(I). The lighting shall be downward directed and fully shielded. Exterior lighting shall be approved by the Planning Department prior to installation.
14. A condominium plat must be recorded prior to the sale of any of the individual units.
15. One year after the Certificate of Occupancy, the applicant and the Planning Department will review any complaints regarding noise, glare, light, and traffic. The Planning Commission may add additional conditions of approval to further mitigate the impacts.

Exhibits

Exhibit A – Applicant's Written Description

Exhibit B – Site Plan and surveys

Exhibit C – Proposed Plans

Exhibit D – Renderings of Proposed Development

Exhibit E – BOA Action Letter and Draft Minutes, 10.18.16



ELLIOTT WORKGROUP

WRITTEN STATEMENT

638 Park Avenue
Kimball Garage
August 26, 2016

Provide a written statement describing the request and any other information pertaining to the conversion of the proposed project.

This Conditional Use Permit Application is being made to request approval of the use of a "Private Event Facility". This project is located in the HRC District / Heber Avenue Sub-Zone and the Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District. The "Private Event Facility" use is listed as a Conditional Use in the HCB District.



ELLIOTT WORKGROUP

GENERAL DESCRIPTION

638 Park Avenue
Kimball Garage
August 26, 2016

How will the proposed use “fit-in” with surrounding uses?

The existing Kimball Garage historic structure most recently housed the Kimball Arts Center and under this occupancy, it has been used as a “Private Event Facility” for decades. The proposed use is being relocated on site to the second floor of the new addition. This move brings the historic use into compliance with the HCB by removing the use from a “Storefront Property” location. This use fit-in well as it has been a standard use of the site form decades. Additionally, this move of use will open the existing historic Kimball Garage storefront for additional desired commercial and retail uses.

What type of service will it provide to Park City?

The “Private Event Space” will continue to serve as a support facility for community uses and will also support the surrounding nightly rental bed base during the shoulder seasons. During the shoulder seasons the event space will be available for meeting and other events, bringing additional visitors to Main Street, further supporting many Main Street businesses.

Is the proposed use consistent with the current zoning district and with the General Plan?

The site for the “Private Event Space” falls under the “General Plan” section “6.8 Old Town: Main Street as the Heart of Park City”. The proposed use is consistent with this section of the General Plan as it will continue to “keep the locals in the equation” and will continue to “provide local businesses with year round patrons”.

Is the proposed use similar or compatible with other uses in the same area?

- a). The proposed use is similar to the ancillary uses associated with the former Kimball Arts Center located on the same site.
- b). The use is compatible with the surrounding uses of nightly rental and commercial as it will provide the opportunity for additional visitors to the surrounding uses.

Is the proposed use suitable for the proposed site?

The proposed use works well at the proposed site due to its relationships to both the adjacent existing nightly rental and the adjacent commercial uses. Additionally, it has good access for drop-off along Heber Avenue which can be

ELLIOTT WORKGROUP

accessed without creating congestion along Main Street. The new location moves the use away from the adjoining residential areas.

Will the proposed use emit noise, glare, dust, pollutants, and odor?

- a). Noise will be similar to the existing use.
- b). Glare will be minimal to non-existent based on the site lines and overhangs designed on the building.
- c). Dust will not be created by this use.
- d). Odor will not be created by this use.

What will be the hour of operation and how many people will be employed?

- a). The hours of operation will be typical of Park City event uses and will vary based on each event. Typical operation will be between 8AM and Midnight. Exterior use will be limited to the Park City Code requirements. Outdoor speakers and music will be limited to 11AM to 10PM.
- b). The number of employees for the "Private Event Space" will vary based on the event. The number of employees will generally vary from 4 to 40.

Are (there) other special issues that need to be mitigated?

There are no new special issues required to be mitigated by the relocation of the "Private Event Space" use within this site.





SUB BASEMENT
A100
SEPT 15, 2016

Kimball Garage Expansion



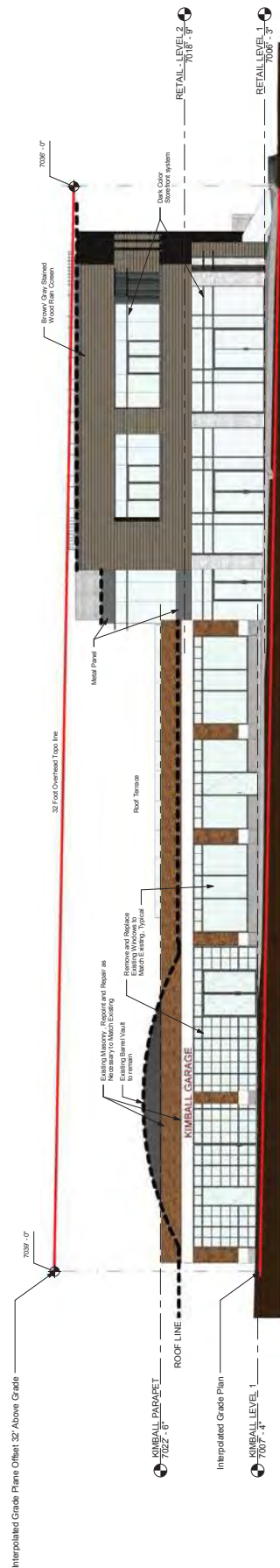


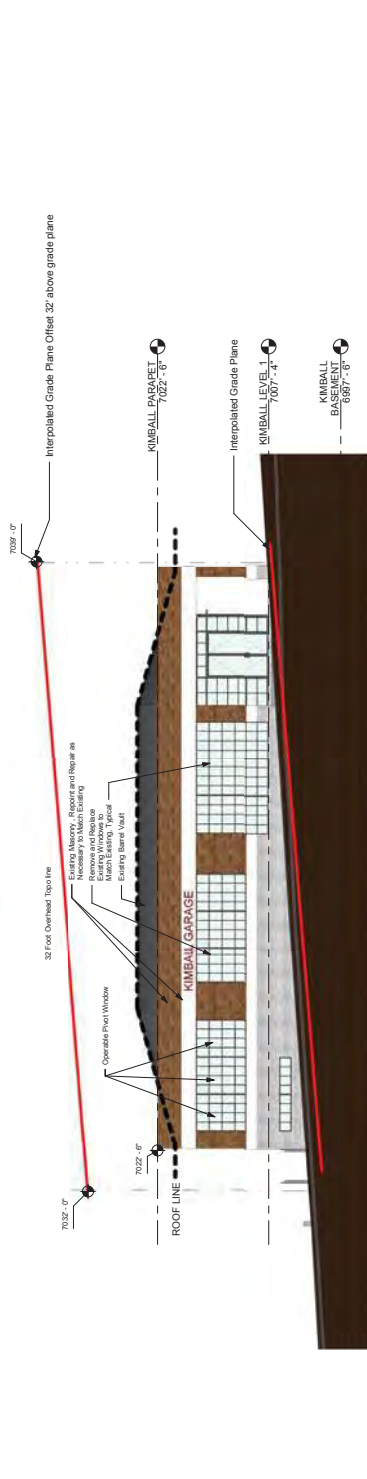




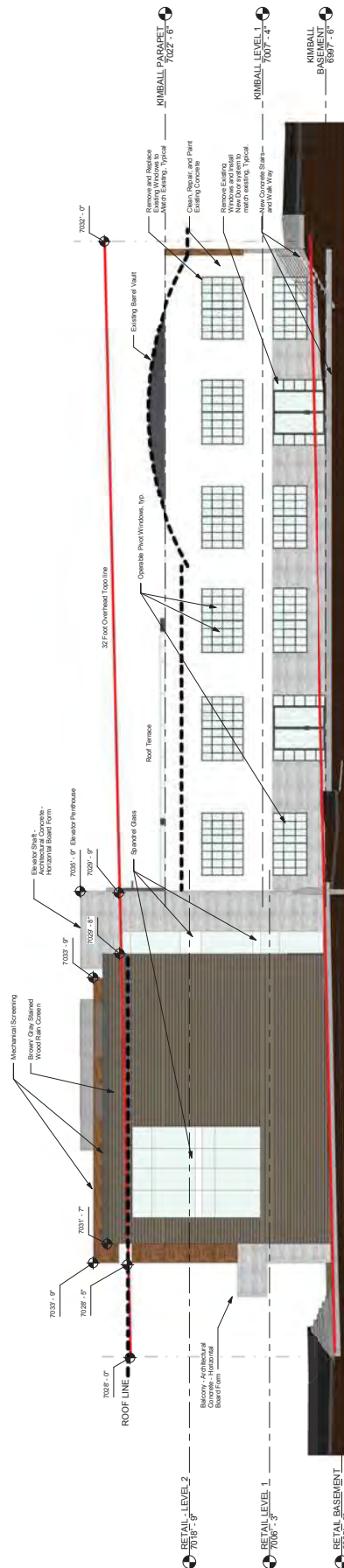
UPPER LEVEL EVENT SPACE
A103

SEPT 15, 2016



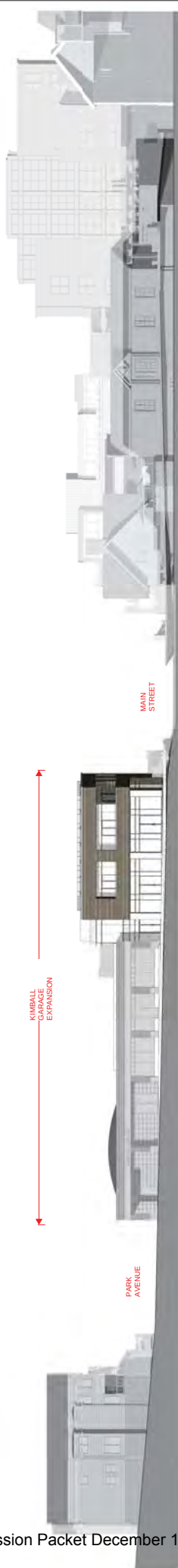


1 WEST ELEVATION

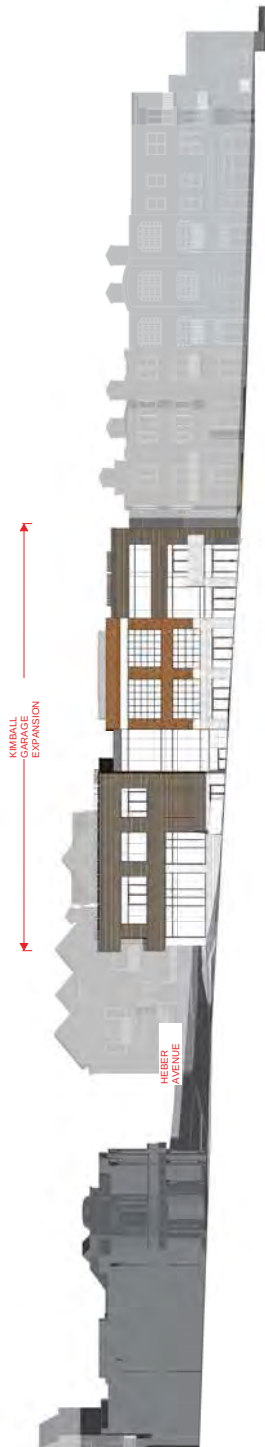
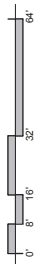


2 NORTH ELEVATION



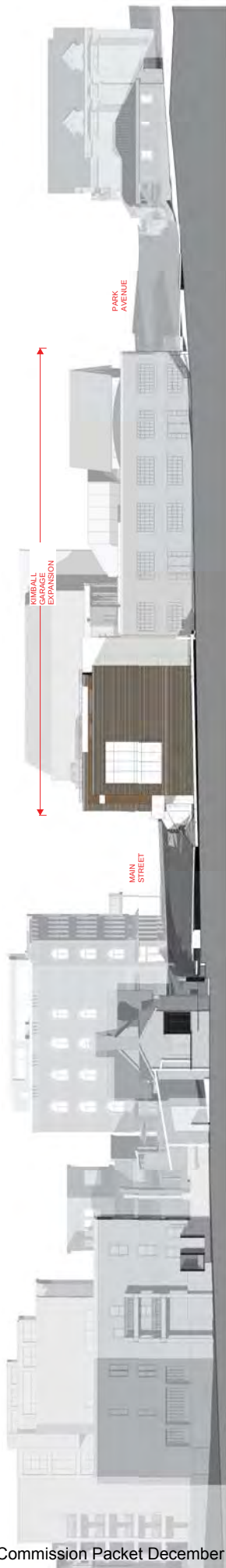


Heber Avenue Elevation

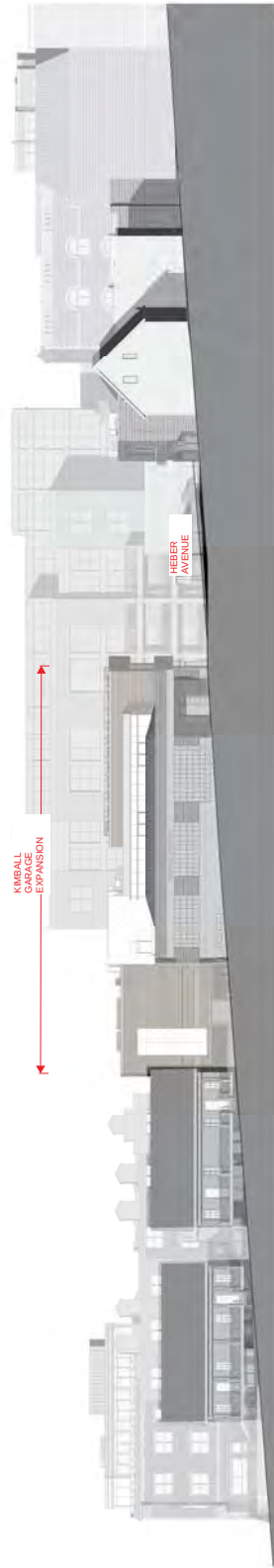


Main Street Elevation





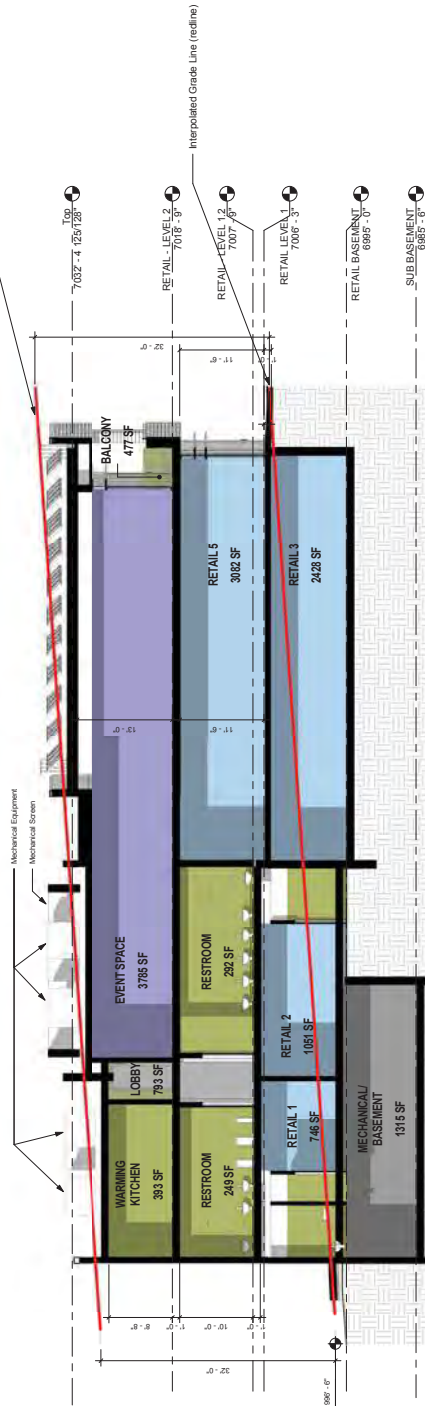
North Elevation



Park Ave Elevation



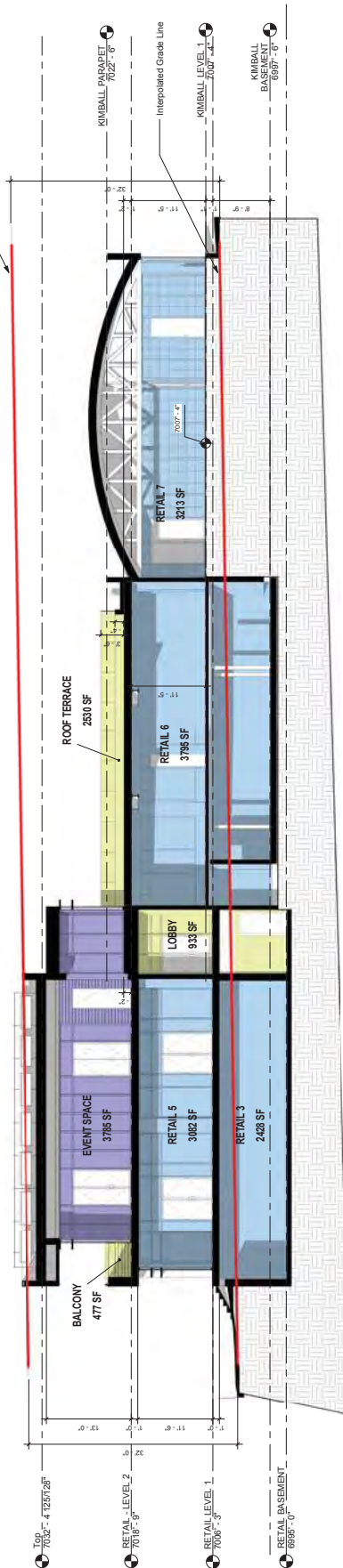
Interpolated Grade Line offset 32' above grade



1 MAIN STREET SECTION



Interpolated Grade Line offset 32' above grade



2 HEBER SECTION





Kimball Garage Expansion

CORNER PERSPECTIVE
A106
SEPT 15, 2016









ZOOM TERRACE PERSPECTIVE
A109
SEPT 15, 2016









HEBER CORNER PERSPECTIVE
A112
SEPT 15, 2016







October 19, 2016

Sandra Morrison
Park City Historical Society & Museum
PO Box 555
Park City, UT 84060

NOTICE OF BOARD OF ADJUSTMENT ACTION

<u>Application:</u>	Appeal of staff's determination of compliance with Design Guidelines and the Land Management Code (LMC)
<u>Project Location:</u>	638 Park Avenue
<u>Project Number:</u>	PL-16-03106
<u>Appellant:</u>	Park City Historical Society & Museum
<u>Action Taken:</u>	Appeal is denied and staff's determination is upheld
<u>Date of Action:</u>	October 18, 2016

On October 19, 2016, the City Council called a meeting to order, a quorum was established, a public meeting was held, and the City Council approved your application based on the following:

Findings of Fact:

1. The property is located at 638 Park Avenue.
2. The site is designated as Landmark on the City's Historic Sites Inventory (HSI).
3. According to the Historic Sites Form, the historic Kimball Garage was constructed in 1929. The building underwent an extensive renovation that significantly altered the interior and exterior of the structure for use as the Kimball Art Center in 1975-1976. The structure was renovated again in 1999.
4. In 1979, the site was designated as contributory as part of the Park City Main Street Historic District nomination for the National Register of Historic Places.
5. The property is in the Historic Recreation Commercial (HRC) District and Heber Avenue Subzone.
6. On January 20, 2015, LCC Properties Group submitted a Historic District Design Review (HDDR) application for the Landmark property located at 638 Park Avenue.
7. On June 20, 2016, staff approved the Historic District Design Review (HDDR) application for the site.
8. On June 30, 2016, the City received an appeal of a Historic District Design Review (HDDR) application approved by the Planning Department on June 20, 2016 at 638 Park Avenue.
9. This appeal was submitted by Sandra Morrison, representing the Park City Historical Society and Museum.

10. Pursuant to LMC § 15-1-18 (D) Standing to Appeal, the Park City Historical Society and Museum has standing to appeal the HDDR final action because they submitted written comment and testified on the proposal before the Planning Department.
11. The proposal complies with Universal Guideline #3 in that the historic exterior features of a building will be retained and preserved.
12. The proposal complies with Universal Guideline #4 in that distinctive materials, components, finishes, and examples of craftsmanship will be retained and preserved. The owner will reproduce missing historic elements that were original to the building, but have been removed, such as the original entrance along Heber Avenue. Physical or photographic evidence will be used to substantiate the reproduction of missing features.
13. The proposal complies with Universal Guideline #5 in that deteriorated or damaged historic features and elements should be repaired rather than replaced. Where the severity of deterioration or existence of structural or material defects requires replacement, the feature or element should match the original in design, dimension, texture, material, and finish. The applicant must demonstrate the severity of deterioration or existence of defects by showing that the historic materials are no longer safe and/or serviceable and cannot be repaired to a safe and/or serviceable condition. The owner has demonstrated that the historic and early replacement steel frame windows are beyond repair and the owner will be replacing the remaining steel-frame windows along Park Avenue and the rear (north) elevation due to their poor condition.
14. The proposal complies with Universal Guideline #6 in that features that do not contribute to the significance of the site or building and exist prior to the adoption of these guidelines, such as incompatible windows, aluminum soffits, or iron porch supports or railings, may be maintained; however, if it is proposed they be changed, those features must be brought into compliance with these guidelines. The applicant will maintain a non-historic ca. 1976 glass addition beneath the overhang of the original fueling station. Staff finds that this addition was sensitively designed so as not to detract from the historic structure and is compatible with the historic building.
15. The proposal complies with Universal Guideline #10 in that the new additions and related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment could be restored.
16. The proposal complies with Specific Design Guideline B.1.1 in that the owner will maintain the original roof form, the western barrel vault, as well as any functional and decorative elements.
17. The proposal complies with Specific Design Guideline B.2.1 in that the primary and secondary facade components, such as window/door configuration, wall planes, recesses, bays, and entryways should be maintained in their original location on the façade.
18. The proposal complies with Specific Design Guideline B.4.1 in that the owner will maintain historic door openings, doors, and door surrounds on the Heber and Park Avenue facades.
19. The proposal complies with Specific Design Guideline B.5.1 in that the owner will maintain historic window openings, windows, and window surrounds on the primary facades.
20. The proposal complies with Specific Design Guideline B.5.2 in that the replacement steel windows will be allowed because the historic windows cannot be made safe and serviceable through repair. The BOA questions that certain historic windows are no longer serviceable or may be in a deteriorated state. The BOA will require that an independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement. Replacement windows

will exactly match the historic window in size, dimensions, glazing pattern, depth, profile, and material.

21. The proposal complies with Specific Design Guideline MSHS3 in that traditional orientation with the primary entrance on Heber Avenue will be maintained.
22. The proposal complies with Specific Design Guideline MSHS6 in that rooftop additions may be allowed. The proposed rooftop deck does not exceed one story and will be set back from the primary façade so that it is not visible from the primary public right-of-way.
23. The proposed renovation and new addition meet all setbacks and has increased setbacks from the minimum towards the north side yard area.
24. Staff does not find that the proposed plan will substantially diminish the character of the neighborhood nor will it cause the structure to lose its local designation as a Landmark structure or its eligibility for the National Register of Historic Places.
25. The proposal complies with Universal Design Guidelines #9 in that the c.1976 exterior alteration does not destroy historic materials, features, and spatial relationships that characterize the site or building. The divided-light glass entry addition beneath the overhang on the west side of the building is visually subordinate to the historic building when viewed from the primary public right-of-way. The addition does not obscure or contribute significantly to the loss of historic materials.
26. The proposal complies with Specific Design Guidelines B.1. Roofs. The BOA has determined that the original roof form, consisting of two (2) barrel vaults running north-to-south are not character-defining features of the historic structure, and, thus, the applicant will only be required to maintain the western barrel-vault.
27. The proposal complies with Specific Design Guidelines B.5. Windows. The applicant will maintain historic window openings and window surrounds on the Park Avenue and Heber Avenue facades; the remaining historic and non-historic steel window will be replaced with new windows that exactly match the historic in size, dimensions, glazing pattern, depth, profile, and material. No storms are proposed at this time.
28. The proposal complies with Specific Design Guidelines D.1. Protection for Historic Structures and Sites. The addition will be visually subordinate to the historic building when viewed from the primary public rights-of-way of Park and Heber Avenue. The addition will not obscure or contribute significantly to the loss of historic materials as the applicant proposes to retain the west barrel-vaulted roof form.
29. The proposal complies with Supplemental Rehabilitation Guidelines—Main Street National Register Historic District. The proposed project will not cause the building or district to be removed from the National Register of Historic Places. The alignment and setback along Main Street are character-defining features of the district and will be preserved. Traditional orientation with the primary entrances of the new addition on Main Street will be maintained. The rooftop deck addition will not exceed one story in height and will be set back from the primary façade so that it is not visible from the primary public right-of-way. The BOA finds that the rooftop deck is consistent with the Historic District Guidelines as it is not generally visible from the Park Avenue and Heber Avenue rights-of-way.
30. Pursuant to LMC 15-1-18(G), the Board of Adjustment shall act in a quasi-judicial manner. The appellant has the burden of proving that the land use authority erred. The appellant fails to specifically indicate how staff erred.

Conclusion of Law

1. The proposal complies with the Park City Design Guidelines for Historic Districts and Historic Sites.
2. The proposal complies with the Land Management Code requirements pursuant to the Historic Recreation Commercial (HRC) District.

Order

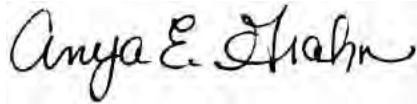
1. The appeal is denied and Staff's determination is upheld.

Condition of Approval

1. An independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement in satisfaction of the Planning Director.

As the appellant, this letter is intended as a courtesy to document the status of your request. The official minutes from the Board of Adjustment are available in the Planning Department office. If you have any questions regarding your application or the action taken, please do not hesitate to contact me at 435.615.5067 or anya.grahn@parkcity.org.

Sincerely,

A handwritten signature in black ink that reads "Anya E. Grahn". The signature is written in a cursive, flowing style.

Anya Grahn
Historic Preservation Planner

PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
MINUTES OF OCTOBER 18, 2016

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Hans Fuegi, Jennifer Franklin, David Robinson, Mary Wintzer

EX OFFICIO: Planning Director Bruce Erickson, Anya Grahm, Planner; Polly Samuels McLean, Louis Rodriguez

ROLL CALL

Chair Gezelius called the meeting to order at 5:01 p.m. and noted that the Board did have a quorum.

ADOPTION OF MINUTES OF JUNE 22, 2016.

Board Member Franklin noted that the minutes had auto corrected Mary Wintzer's name to reflect Mary **Winter** and it needed to be changed to **Wintzer**.

MOTION: Board Member Hans Fuegi moved to APPROVE the minutes of June 22, 2016 as amended. Board Member David Robinson seconded the motion.

VOTE: The motion passed. Jennifer Franklin abstained from the vote since she was absent from the June 22nd meeting.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

There were no reports or comments.

REGULAR MEETING – Discussion, Public Hearing and Possible Action

638 Park Avenue – Appeal of Staff's Approval of a Historic District Design Review for the Historic Kimball Garage. (Application PL-16-03106)

Planner Anya Grahm apologized for forgetting to include the action letter for the Historic District Design Review approval in the Staff report. She had it available this evening if the Board needed it.

Planner Grahm reported on public comment she had received earlier that day from Sanford Melville. She provided copies of his letter to the Board.

Planner Grahm explained why the Board of Adjustment was reviewing an appeal of the Staff determination on Design Guideline compliance since that is typically heard by the Historic Preservation Board. She reminded the Board that in December 2015 the LMC was amended to give the Historic Preservation Board more responsibilities regarding material deconstructions. When that change was made, the Board of Adjustment became the appeal body so there were no conflicts of interest. Therefore, the Board of Adjustment was the first body to appeal this application.

Planner Grahm stated that the BOA was reviewing this de Novo. She thought the Staff report was descriptive regarding the overall development of the site. However, she reminded everyone that the building was built in 1929 as the Kimball garage. It was built during Park City's mature mining era, which lasted from 1894 to 1930. The Staff report outlined the changes that have occurred as the site was developed between a gas station and into the Kimball Art Center. The site is listed as Contributory on the 1979 National Register Nomination for the Park City Main Street Historic District. The site is also listed as a Landmark on the Historic Sites Inventory, which is the highest historic designation. Landmark means the structure is National Register eligible because it retains such a high level of historic integrity.

The Staff found that the proposal complied with the LMC and Design Guidelines on June 20th, and it was appealed by the Park City Museum on June 30th. Planner Grahm stated that the Appellant primarily based their objections to the project based on the Secretary of the Interior Standards. She pointed out that the standards are set by the Federal Government and the National Park Service. The Standards are a series of concepts about maintaining, repairing, and replacing historic materials. However, the Staff does not enforce the Secretary of the Interior Standards. The Design Guidelines are Park City's interpretation of those standards; particularly the Universal Guidelines. The Design Guidelines were approved by the City Council in 2009.

The Staff found that the Appellant had four major objections to the proposal. The first is the loss of one of the barrel vaulted roof forms. Planner Grahm presented a photo showing how the Kimball garage looks now. The Staff found that overall the character defining features of the site were the horizontality of the architecture. When this building was constructed in 1929 they did not have the engineering and structural abilities of today. To have a flat roof would have been impossible to construction, which is why they designed the barrel vaults. Planner Grahm noted that the barrel vaults were designed with a flat bottom edge, which helps them to hide and disappear behind the parapet, which is another character defining feature of the site. Planner Grahm stated that other character defining features that the Staff thought related to the horizontality were the long horizontal bays that are divided by vertical columns, the coping above the cornice line, and other features outlined in the Staff report. The Staff found that the rooftop deck as proposed would remove one of the barrel vaults, but because the barrels were

designed to be hidden and were meant to disappear behind the parapet, the Staff felt the addition was appropriate. The Staff also determined that the cantilever in the deck was inappropriate because it would have more of an impact on the historic character of the building and detract from the historic building.

Planner Grahm reported that the Appellant was also objecting to an addition of a new door along Heber Avenue in this location. The Staff found that there most likely was a door in that central bay that accessed commercial space on the interior of the garage. Planner Grahm believed the door was removed in 1976 as part of the Kimball Arts Center renovation.

Planner Grahm stated that the Appellant was also concerned about the Staff allowing the applicant to maintain the glass addition beneath the overhang. This area was originally the pull-up area into the fueling station. She noted that the original walls of the Kimball garage were taken out at some point and the glass addition was put in in 1976. The Staff found that the glass addition itself was not incompatible to the design of the gas station. Planner Grahm remarked that it was largely designed to be transparent, which reflected how open the fueling pump area would have been historically. It was also designed to be behind the wall of the Heber Avenue façade, which helps that overhang cast a shadow and allow it to disappear.

Planner Grahm stated that the Appellant objected to the removal of the steel windows. She pointed out that there are historic windows on this building. One is located on Park Avenue and the remaining are located on the rear addition on the north side of the building. Planner Grahm explained that the Guidelines permit the replacement of windows when the historic windows cannot be made safe and serviceable through repair. Replacement windows must always match exactly the historic windows in size, dimension, glazing pattern, depth, profile and material.

Based on discussions with the applicant and the information he provided, the Staff concluded that the windows were in poor condition and were likely beyond repair. The Staff also allowed the applicant to install one new window on the Park Avenue façade. That area, which was a pull-in to the fueling station, was filled in in 1976 as part of the Kimball Art Center renovations. The area on the other side of the wall is interior space. It is currently covered with corrugated metal and the applicant was proposing to add glass. The Staff felt this was appropriate because it lends itself to transparency beneath the original fueling pump station.

Planner Grahm stated that the Museum would have the opportunity to give a presentation this evening. Tony Tyler and Craig Elliott, representing the applicant, were also prepared to give a presentation.

Sandra Morrison, representing the Park City Historical Society and Museum, stated that the historic Kimball Garage was one of Park City's most prominent and cherished historic buildings. Rehabilitation and the adaptive reuse of this iconic structure needs to demonstrate the best practices of historic preservation, and meet the community's desire to preserve the built environment and to honor Park City's unique history. Ms. Morrison noted that the City Council adopted the Historic Sites Inventory in 2009 to address these concerns. Landmark sites were identified on the Inventory and those sites would be protected by the strictest regulations and not suffer from decisions that are arbitrary or based on personal taste. She pointed out that the Kimball Garage is a Landmark site.

Ms. Morrison stated that the Historic Society actively attempted to participate in the Historic District Design Review process for the Kimball Garage renovation project. They attended the public hearing on February 27th, and submitted written comments during the public hearing on June 7th. Ms. Morrison felt it was important to note that this application has never gone before the Historic Preservation Board.

Ms. Morrison remarked that the Historical Society was notified of the Staff's action approving the project, but they were never given details for the basis of approval. They were informed by Staff that they would have to submit a GRAMA request for that information. Ms. Morrison apologized for a handwritten appeal, and explained that it was hastily written because they were unsure of what had exactly been approved. Their detailed statement was included in the Staff report. Ms. Morrison noted that some of the information in the detailed statement was different from what Planner Grahn represented in her presentation.

Mr. Morrison stated that the approval process occurred behind the scenes, and she appreciated this opportunity to address their concerns. Ms. Morrison thought the biggest issue was that part of the approval ignored the Historic District Design Guidelines and the LMC. The concern is whether that might have started a slippery slope in terms of what could happen in the future.

Ms. Morrison referred to page 66 of the Staff report which contained pages of the Park City Design Guidelines for historic districts and historic sites. She believed there was a tendency in Park City to think that they were nothing more than guidelines and did not need to be followed exactly. Ms. Morrison remarked that it was an untrue perception because the guidelines are part of the LMC and they are mandatory. She read from LMC Section 15-11-11, "The Design Guidelines are incorporated into this Code by reference". Ms. Morrison read from the Design Guidelines, "Whenever a conflict exists between the LMC and the Design Guidelines, the more restrictive provisions apply".

Ms. Morrison outlined their concerns. The first was the improper removal of half of the roof. She presented a photo from the historic sites inventory showing the two barrel roofs. She noted that page 30 of the Guidelines calls for maintaining

the original roof form. She pointed out that the barrel roofs were the original roof form on the Kimball Garage. Ms. Morrison believed the Staff had erred in allowing the demolition of half the roof. She referred to the Staff report and comments by Planner Grahn indicating that the barrel roof was not a character defining feature. Ms. Morrison noted that the Design Guidelines do not talk about —character defining features”. It is not listed in the glossary and the term is not defined. She felt that discussing character defining features at this point was a red herring. Ms. Morrison referred to Planner Grahn’s comment that the roof was not intended to be seen when it was built; and noted that the Code does not address that issue either. It only says to maintain the original roof form.

Ms. Morrison remarked that the barrel roofs are also features of the building. She referred to the Universal Guideline #3 on page 28 of the Design Guidelines, which states, —Historic exterior features of the building should be retained and preserved”. Ms. Morrison pointed out that the roof was obviously a historic exterior feature, and demolishing one of the two barrel roofs was not retaining the historic feature. She stated that if they ignore the Code now and determine that the roof is not important and half of it could be demolished, she questioned how they could stop demolition of the other half in the future.

Ms. Morrison stated that the next concern was removal rather than restoration of the historic windows. She referred to page 32 of the Historic District Design Guidelines for windows, and read from Guideline B.5.2, —Replacement windows should be allowed only if the historic windows cannot be made safe and serviceable through repair. She presented a slide Silver Star where the windows were damaged and the developer replaced the panes and retained the historic windows.

Ms. Morrison noted that in the Findings of Fact, the Staff did not offer any explanation as to why the historic windows would be replaced. She also noticed that the Code does not identify who should determine that the historic windows are beyond repair. Ms. Morrison thought that an impartial party with expertise in that field should make that decision.

Ms. Morrison noted that the applicant has argued the word serviceable. She looked up the word in the Merriam Webster Dictionary and —serviceable” means —ready to use, or be able to be used”. She did not believe they needed to argue that serviceable was something more complex. On the issue of single-pane, Ms. Morrison stated that a lot of single-pane windows have been preserved in Park City, one being the Museum building. She had Googled repairing historic windows and she had 8,000 hits. The National Trust talks about repairing historic windows being more economically and environmentally friendly. It noted that amount of windows that are destroyed every year and the amount of debris it generates. Ms. Morrison remarked that preserving historic windows is a greener approach than installing a new window; and historic preservation is part of the solution for reducing the carbon footprint, which is another important goal for

Park City. Ms. Morrison presented slides of other historic buildings where the historic windows were preserved.

Ms. Morrison stated that the next concern was the demolition of the historic windows openings to accommodate new doors. She presented a photo of the north façade of the Kimball Garage, and noted that the Staff had approved altering two of the historic window openings to accommodate doors. Ms. Morrison reads from page 31 of the Design Guidelines, B.2.1, “The primary and secondary façade components, such as the window door configures, should be maintained”. She noted that Finding of Fact #25(g) states that the façade components such as the window/door configurations will be maintained. Ms. Morrison believed that was inaccurate because the applicant has proposed substituting two of the windows and that the openings will be enlarged to accommodate new doors. Ms. Morrison read from page 32 of the Design Guidelines, B.5.1, “Maintain historic window openings and window surrounds”; and B.5.2, “Replacement windows should exactly match the historic window in size, dimension, glazing, pattern, etc.” Ms. Morrison pointed out that Finding of Fact 25(j), stating that the applicant will maintain the historic window and window surrounds was also inaccurate because the window surrounds would be cut to accommodate the two new doors. Ms. Morrison noted that the applicant had agreed that these were historic windows.

Ms. Morrison stated that the next concern was the replication of the non-historic front façade. She presented a photo of the glass lobby. She remarked that the glass entry extends into the two open bays and it is not historic. She showed a picture from 1949. Ms. Morrison stated that the Universal Design Guideline #6 on page 29 of the Design Guidelines states, “Features that do not contribute to the significance of the site or the building and exist prior to the adoption of these guidelines, such as incompatible windows, etc., may be maintained. However, if it is proposed that they be changed, so features must be brought into compliance with these guidelines”. Ms. Morrison explained that the proposal is to have a new double door entering from the front façade off Heber Avenue. She thought the Findings of Fact erred once again because the non-historic addition is being changed. Per the guidelines, it should come into compliance.

Ms. Morrison commented on the replication of the non-historic Park Avenue façade. She referred to the image shown on page 44 of the Staff report, and language indicating that only one bay was open in 1944. However, a blown up version of the 1944 photo shows two open bays from Park Avenue. Another photo showed the Kimball Arts Center with the 1976 remodel. Ms. Morrison believed the bay was most likely filled in in 1976. She noted that the Guidelines state that features that do not contribute to the significance of the building and exist prior to the adoption may be maintained, but if it is proposed to be changed, those features should be brought into compliance with the guidelines. Ms. Morrison stated that Finding of Fact #24(g) was in error because it was allowing a substitution. She presented a slide of the façade, which said “remove and

replace and match existing with typical". Ms. Morrison remarked that if the applicant wanted to remove and replace, the Guidelines need to be applied, and the Guidelines say to bring it into compliance. She read from Universal Guideline #7 on page 29 of the Design Guidelines, —Owner are discouraged from introducing architectural elements or details that visually modify or alter the original building design when there is no evidence that such elements or details exist." Ms. Morrison stated that the documentary evidence is that there was no window and it was an open bay.

Ms. Morrison emphasized that the community relies heavily on the Land Management Code and the Design Guidelines to protect the historic sites for future generations; and every small concession or inconsistent approval is compounded over time. Ms. Morrison stated that remarkably the historic structures have survived from the mining era, and through their stewardship and precaution, they could survive for many more years to come.

Ms. Morrison requested that the Board of Adjustment rescind the approval for the Historic District Design Review, and to direct the Staff to draft new Findings of Fact that are consistent with the Design Guidelines, including no demolition of the historic double-barrel roof form; repair, not replacement of the historic windows; no demolition of the historic window openings to accommodate new doors; removal, not replacement, of the non-historic glass entry on Heber Avenue; removal, not replacement, of the non-historic corrugated iron Park Avenue; and the re-establishment of the historic open bays on Heber and Park Avenues.

Craig Elliott, representing the applicant, stated that he has been working on this project with the Staff and the owners for nearly two years. They have had great dialogue on the project. Mr. Elliott addressed a few comments before discussing the actual project. He noted that they did not go before the HPB because the project was initially filed before that requirement was in place. Mr. Elliott clarified that the applicant has followed the proper process and all of the rules and regulations, and they are working diligently with Staff to protect the historic nature of Park City.

Mr. Elliott stated that the Kimball Garage is an interesting building and the building itself is unique. The ownership of the building understands and respects that; however, it is different than any other structure in the Historic District because it is an industrial building. Its original use was a gas station, a service bay, and associated retail. Mr. Elliott explained that as they looked at the project they looked at how it engages with the Historic District today, and how it brings value and protects the building over the next generation. He emphasized that the new ownership was interested in being good stewards of this building.

Mr. Elliott thought it was important to understand how they addressed this project and how the Historic District Guidelines apply. When starting a project there has

to be an understanding of which approach to take with the Historic District Design Guidelines. He noted that four different approaches are available. Mr. Elliott stated that they chose to move forward with the rehabilitation project, which also encourages preservation. He summarized that the approach they took basically says that if the intent is to stabilize a building or structure, retain most or all of its historic fabric, and to keep it looking as it currently does now; preservation is the first treatment to consider and it emphasizes conservation, maintenance and repair. Mr. Elliott noted that the owners were looking to do all of those things to protect it. He pointed out that they also took a rehabilitation approach because the project is an adaptive reuse. If they were to use the more restrictive restoration and move it back into the use of a garage for car maintenance or automotive retail, they would probably look at a restoration of the building. However, that use is not their intention, nor is it the requirements of the Design Guidelines. Mr. Elliott reiterated that the owners chose to move forward with preservation and rehabilitation. Rehabilitation says that if a building is to be updated for its current or a new use, it will be rehabilitated. The second treatment also emphasizes retention and repair of historic materials, although replacement is allowed because it is assumed that the condition of existing materials is poor. Mr. Elliott noted that this was the framework within which they applied the Historic District Design Guidelines. He believed it was the appropriate approach based on the uses, the historic use, and the existing condition of the Historic District.

Mr. Elliott presented a slide showing the plaque on the building that was awarded in 2000. He noted that the new ownership is proud of the building and they want to maintain it because it adds value to the City and to the building owners.

Mr. Elliott commented on the roof analysis. One of the issues raised by the Appellant was the barrel vaults. He explained that they are referred to as barrel vaults but they are actually bow string trusses that have a burrito shaped roof because it falls away and down to the parapets, which were intended to raise up and hit the roofs. Mr. Elliott stated that there were no examples in the Design Guidelines about analyzing existing building roofs, but there are examples of how to look at additions and how it impacts the existing building. He explained how they looked at it from across the street on the sidewalk and took a view line to see what was visible, what it impacts and how to approach it. Mr. Elliott had taken photos from all the corners on neighboring properties. He reviewed slides to show what was or was not visible from various points.

Mr. Elliott noted that the Appellant had responded about historic preservation based on the Secretary of the Interior Standards on Historic Preservation. He stated that he has been working on historic preservation projects since early in his career. He commented on renovation and rehabilitation projects he had done in New York City in the 1980's and 1990's. All of those projects looked at replacing windows that were unserviceable. He understood that there were preservation briefs on how to approach that. Mr. Elliott stated that this project

falls under two different preservation briefs. They are guidelines that help to analyze and understand things are not specifically addressed in the Code. He noted that a preservation brief for roofing for historic buildings, which talks about the significance of the roof and historic roofing materials. He explained that the significance of the roof is its prominence and whether the form was there and designed to create a visual impact on the exterior appearance of the building. Based on his look at the building, he did not believe that was the case. From the streetscape on all sides it was not intended to be an important element. Mr. Elliott remarked that the second part of the preservation brief is based on materials. He stated that the materials on this roof has never been a material that would be expected to add character to a building. It is currently a built-up roof, and it may have had rolled out asphalt roofing before. However, it is not a material such as wood, clay, slate or other materials that have a decorate element that would add character. After applying the standards, they determined that that was not the intent of the design of the building.

Mr. Elliott stated that the second part of the preservation briefs talks about the reuse of historic gas stations. This particular building falls under the category of a multiple use station because it provided gasoline and additional services. Mr. Elliott noted that a section in the historic preservation brief talks about roofs on historic gas stations. It reads, ~~While~~ some gas stations were defined in part by historicized roofs, other were characterized by the absence of a pitched roof. Flat roofs or very low sloped roofs concealed behind parapets were common on both articulated contemporary design, such as glass-sheathed Streamline, Moderne, and International Style gas stations, as well as basic utilitarian boxes". Mr. Elliott believed the Kimball garage falls underneath the Moderne and the basic utilitarian box as a building, which was characteristic of multiple use gas station buildings built in that era. Mr. Elliott remarked that the preservation brief talks about it not being an important character defining element. Their approach was to try and understand the expectations.

Mr. Elliott commented on the window analysis and what the existing historic windows entail and what they are made of. He presented a slide showing the windows currently in place, and the detail of the condition of the windows. In looking at the individual performance of the windows and the glazing, Mr. Elliott noted that the windows were industrial windows designed to keep out the wind and the rain, and to provide a lot of light and some ventilation. Mr. Elliott stated that the reality is that windows were upgraded over the years, but their serviceability is very minimal. Mr. Elliott presented examples of other buildings in Park City to show how these types of windows can be replaced. He noted that the owners were proposing a higher standard of care by using a steel window with a thermal break, which more closely matches the windows at the gas station than what occurred at the Library and the Marsac Building in terms of matching the original windows.

Mr. Elliott stated that in his report he had provided an analysis as to why the existing windows were not serviceable. He explained the attributes of using a proposed steel window with a thermal break. Mr. Elliott believed that installing these windows into the building would maintain its historic compatibility and protect the building because it will be a viable and usable structure.

Mr. Elliott had done a model to show what the deck would look like if it was added on top. He noted that the eye line was raised to 8-1/2 feet in order to see the barrel vaults. Another slide showed it from 13 feet off the ground so more of the barrel vault was visible. Mr. Elliott clarified that they had no interest in doing that, but they were asked to show what it would look like. He explained that what they were proposing would not be seen from the street.

Mr. Elliott presented a slide showing the existing windows on the corner. He noted that those windows were installed 40 years ago and most people understand the building from its historic use as the Kimball Arts Center. Mr. Elliott stated that those spaces have been used as an addition and in place for four decades. Nothing in the Historic District Design Guidelines require removing the additions. It talks about ways to approach it and what may be done. Mr. Elliott reiterated that the Guidelines focus more on wood frame small house structures versus industrial buildings.

Mr. Elliott stated that they tried to maintain the existing condition of the additions and use that space; and also upgrade the window system to be more compatible with the existing window systems. Mr. Elliott presented photos showing the glazing on the glass panels in the bay. They believe that bringing those windows up to current standards and matching those with the profiles of the historic windows, it becomes less noticeable and more background to the existing building without harming the historic structure. Another slide showed the door on Heber Avenue. Mr. Elliott anticipated a discussing regarding that door. He was unaware that the Appellant was also concerned about the windows on the back.

Mr. Elliott stated that the building was designed as a street front building; therefore, the two street fronts have finished brick. The two other sides were intended to be sidewalls to what he believed were other buildings that were expected to be built on the street front in those areas.

Mr. Elliott stated that in looking at the overall building, the historic significance of the building, and the two primary uses over time, he thought it was comfortable to leave the existing windows in place. It was not required to be removed, but it has been allowed and encouraged in certain instances. He believed their proposed was consistent with the Guidelines and consistent with representing the Historic District buildings. He pointed to other historic buildings that have seen significant changes and additions that affect both the roof, as well as other additions that are more contemporary, but they were still compatible. It is what keeps the City alive and keeps the activity going. Mr. Elliott thought the purpose of the Design

Guidelines was to protect the history of the buildings; and as they move forward in time and the uses adapt, create ways that protect the historic integrity.

Tony Tyler with Columbus Pacific, the building owners, stated that they were presented with a very unique opportunity on this very spectacular piece of property and spectacular building. Mr. Tyler stated that he was a history major in college and even though he is a developer, he is personally passionate about historic buildings and the Historic Main Street District. Mr. Tyler felt their proposal includes things that would permanently preserve some characteristics of the building that are critical to the reflection of the building as it was built and designed, but also looking to the future and how the building can be utilized.

Mr. Tyler stated that they have worked closely with Anya Grahn and Bruce Erickson. The process was extensive and very well thought out. He remarked that the overall goal was to rehabilitate an existing historic building with an addition that creates a link between upper and lower Main Street that has never existed in a functional way. If done right it can provide something that will become a new keystone for the City by preserving the existing building and adapting it to a new use. They would also be providing additional new space immediately adjacent to it.

Mr. Tyler stated that in terms of the barrel roof form, once a building is rehabbed more than 50%, it is required to be brought up to Seismic Code. He pointed out that the existing building currently does not meet Seismic Code. Mr. Tyler pointed out that even if they wanted to leave the barrel roof trusses as they were originally designed, it would not meet Code. He noted that in working with the City, they elected to move the barrels from the east vault to the west vault and double the trusses to retain as much of the historic character as possible and still meet Seismic Code. They had the opportunity to remove both barrels of the bow string truss, but they did not believe it was the right thing to do. Mr. Tyler emphasized the importance of retaining the historic character of the building.

Mr. Tyler thought the windows were a different issue. He wanted it clear that the only original windows were on the back of the building. The windows are not serviceable and do not meet energy code requirements. As a developer, they were trying to be as prudent as possible to provide for Sustainable Practices. They were proposing to put solar panels on the top of the roof, as well as other things to promote green building design and energy efficiency. Looking the historic windows in place would completely obliterate the possibility of the building being weather tight.

Mr. Tyler stated that Craig Elliott is an expert in all forms and facets of historic renovation, which is why they hired him. He was confident that Mr. Elliott's expertise in dealing with historic structures was very high. Mr. Tyler remarked that the goal is to create a new piece of history with the addition and to preserve a significant piece of the City's past.

Chair Gezelius opened the public hearing.

Jim Tedford, representing the group Preserve Historic Main Street, stated that the group has been involved with this project for nearly four years. He noted that the current rendition was a definite improvement over the 80' log tower that was proposed three or four years ago. However, Mr. Tedford believed some things were in direct conflict with the Historic District Design Guidelines. One is that Finding of Fact #24 states that —the proposal complies with the Universal Design Guidelines for Historic Sites. The Universal Design Guideline states, —the Historic exterior features of a building should be retained and preserved". Mr. Tedford noted that this was obviously an historic exterior feature which can be clearly seen in some of the photos that were shown. He understood that the visibility depends on the angle the photo was taken from. He walked by it this evening and the barrel vaults could definitely be seen. Mr. Tedford stated that according to the proposal, the eastern barrel vault, which is a historic exterior features, would not be retained and preserved. Mr. Tedford read from Finding #24(d), —The proposal complies with Universal Guideline #4, in that the distinctive materials, components, finishes, and example of craftsmanship will be retained and preserved". He assumed the barrel vaults would be considered a component and they were not being preserved. Mr. Tedford noted that the Findings state that the proposal complies with Historic District Design Guidelines b.1.1, roofs as conditioned. —the Planning Department has determined that the original roof form consisting of two barrel vaults running north to south are not character defining features of the historic structure, and thus the applicant will only be required to maintain the western barrel vault". Mr. Tedford remarked that the actual wording in the specific Guideline B.1.1 states that you must maintain the original roof form as well as any functional and decorative elements. Mr. Tedford stated that a lot of words get used in reference to the Lan Management Code and the Historic District Design Guidelines that tend to be gray or ambiguous, such as compatible or subordinate. However, in his opinion, this was absolute black and white. The barrel vaults on the roof maintain the original roof form. It was stated by the Planning Department that the decision to save only one of the barrel vaults was a compromise. Since there is no mention of a compromise in the Historic District Design Guidelines, he believed both barrel vaults must be treated the same. The Guidelines must be strictly adhered to, and therefore, both barrel vaults must be retained and preserved.

Mike Sweeney referred to the photo of the Coalition building. The photo shows that it was Heber Avenue and Park Avenue, but there was no Main Street that went down through that location. It was a railroad yard where the ore left and the coal came for the mining industry. Mr. Sweeney stated that the historic nature they were talking about preserving was basically on the Heber side of this building. There was nothing there, it was just a vacant lot. His family used to own the Coalition building. Mr. Sweeney believed the Staff had taken a great approach in looking at how do this and make it work. Making it work means they

will create an area where lower Main Street and upper Main Street meet and connect, and there will no longer be a lower Main or an Upper Main. It will just be Main Street, and that is a critical component part of making the street function as a district for commercialization in this particular area. Mr. Sweeney stated Sandra Morrison is a very bright person and he understands that she looks at things differently, but in this particular case, he thought it was important to look at the functionality of the building and how it will function in that location to make it better. He agreed that this was a much superior project than what they previously looked at for the Kimball Arts Center itself. Mr. Sweeney supported the Staff.

Ken Martz provided some history since he was Chair of the Historic Preservation Board when the Design Guidelines were developed. Mr. Martz recalled that the HPB spent most of the year developing those guidelines, and most of their time was spent on Main Street type properties, the different types of homes in the Park City area, and the Inventory. Mr. Martz noted that very little time was spent talking about industrial buildings such as the Kimball Garage and the Memorial Building. Mr. Martz referred to a letter in the Staff report from Kirk Huffaker talking about adaptable reuse. Mr. Elliott had also mentioned it. He remarked that the HPB had not talked at all about adaptable reuse. It was not developed in the Guidelines, but he believed there was more space for adaptable reuse, especially in the larger buildings that are more complex than a T-cottage or a Main Street building with one façade. Mr. Martz stated that he has owned historic property in Upper Park Avenue and there have been problems over the years with the Historic Sites Inventory. The biggest problem was that the Kimball Arts Center took a year and a half of time trying to develop something, and the potential of turning the property into a planned unit development which did not utilize the process of the Historic District Guidelines. A lot of time was lost in trying to format the use of that building and it left a bad taste for the process, particularly for the Preserve Historic Main Street group and the Historic Society. In his opinion, it was a process that should have never started because it was totally out of character to consider turning a Landmark structure into a planned unit development. The building has a new owner and Mr. Martz agreed that this proposal was a big improvement. Mr. Martz acknowledged that he was not a purist like Mr. Tedford and Sandra Morrison. He has been in Park City over 50 years and he remembers when it was a gas station. He has seen a lot of changes over the years, and while it is good to be purist, you still have to be flexible. Mr. Martz hoped the Museum, the owner, Mr. Elliott and the Planners could work together to make this the best project possible.

Chair Gezelius closed the public hearing.

Chair Gezelius noted that the Staff report outlined several actions that the Board could take. She requested that the Board members focus on the big picture and understand that there was an application before them that the Staff had carefully reviewed and supported in its current form. Chair Gezelius did not believe it was

necessary to go through each Finding; however, she wanted to discuss the major points of the appeal Ms. Morrison had presented, and then discuss the applicant's perspective. She prefaced their discussion with a comment by Mr. Martz, that if they get too caught up in the detail and do not look at the big picture, they will lose every historic building because they would never come a decision. She pointed out that Park City does not have earthquakes that knock building down, but they do have demolition by neglect. The intent is to prevent that with this application. The hope is to have this building be a viable functioning property in the heart of town. Chair Gezelius believed there was a way to do that and facilitate it without animosity or hard feelings.

Chair Gezelius called for Board comments regarding the roof.

Board Member Wintzer asked for clarification on the timeline for when some of the buildings Mr. Elliott had mentioned were renovated. The Egyptian and the High School were done prior to the 2009 Guidelines and she asked about City Hall. Chair Gezelius believed City Hall was renovated within the last ten years. Ms. Wintzer clarified that they did not have the Guidelines at that time.

Ken Martz noted that the building had gone through two renovations and the last one was when the windows were put in. Chair Gezelius agreed that the last renovation addressed utility considerations, seismic and fire safety. Heating and cooling with the old windows also had to be addressed in order for it to continue to be a functional office building. Ms. Wintzer pointed out that the High School was done before the 2009 Guidelines were in place, and that the old guidelines had much less detail.

Director Erickson reported that the restoration of the Park City Library was completed in 2013/2014. The last renovation of City Hall was done in 2009. Chair Gezelius remarked that the Guidelines have changed and they will be changed again. Ms. Wintzer asked if the Landmark status was affected due to the restoration and renovation of these buildings. Chair Gezelius replied that the Landmark status was maintained.

Sandra Morrison noted that the Landmark status was created after the original renovation of the High School and City Hall. Both buildings are Landmark structures.

Board Member Fuegi asked about the seismic issue with the barrel roof. He wanted to know if the roof could be reinforced and maintained in its original shape and still meet the Seismic Code.

Craig Elliott stated that they will reach the 50% threshold because the entire building was being renovated. For that reason, they have to bring the roof into compliance for snow loads, and they also have to bring the overall building into Seismic compliance. That will be done with concrete elements on the inside.

The steel ties currently visible on the outside of the parapet will be removed. Both are required in order to bring the building into compliance as they rehabilitate it. Mr. Elliott noted that they able to use the bow string trusses from the eastern side and double them with the existing ones to achieve the increased loads for twice the capacity. It was originally designed for half the capacity of what is now required.

Board Member Wintzer asked if the doubling up would be to take the east barrel and put it on the west. Tony Tyler explained that inside the building there are individual bow string trusses at certain spacing. They would take the ones from the east bay and move them over to the west bay and put them side by side with the original ones on the west bay. In moving those, those two would create enough bearing capacity for gravity load and the required seismic.

Chair Gezelius understood that if they were required to maintain the current roof shape, it would require what Mr. Elliott had said and a new roof on the other side. Mr. Elliott replied that it would require both of the roofs on the interiors to have new structure inside to help support the existing bow string structure. Wood joists will be renovated or replaced because many are rotten and they do not meet the span distances. Those would have to be replaced in either case. Mr. Elliott explained that as they bring the building into compliance, everything has to meet the code.

Board Member Wintzer thought the double barrel shaped roof was distinctive. She agreed with Mr. Tedford because she had also walked and driven from various points and it could be seen from a number of places. Ms. Wintzer stated that as she read the Staff report, it seemed that the logic for removing the east barrel shape was simply because of the deck. If the deck was not needed that unique feature could stay. Ms. Wintzer agreed with Mr. Tedford that the Guidelines do not give wording to talk about compromises on that issue. She thought the double barrel configuration was important, and it is significant for what the building is about. Ms. Wintzer also agreed with Mr. Martz about coming to a meeting of the minds because they were chipping away at some much of the historic district. As a community they need to make the decision on whether to take a stance that puts the owners in compromising positions, or, as Chair Gezelius had said, risk losing the buildings by neglect.

Chair Gezelius understood that Board Member Wintzer felt strongly about keeping the roof shape. Ms. Wintzer replied that she personally felt it was important.

Chair Gezelius found the deck to be the least compatible to the historic use of the building. She understood the need to get in and out due to fire, and adjusting windows and doors for safety, and the earthquake codes. However, she could not see the necessity of modifying this historic building for a roof deck. Chair

Gezelius believed that maintaining the roof shape was part of maintaining the façade.

Ms. Morrison pointed out that Universal Guideline #9 states, —~~new~~ additions, exterior alterations, or related new construction should not destroy historic materials, features, or relationships that characterize the site or building”.

Board Member Robinson could see a contradiction and he was struggling to consider both sides because of it. On one hand, if the roof is considered a character defining feature, it needs to stay. However, if it is not a character defining feature, then Guideline B.1.1 would apply, which says that the roof shape cannot be changed regardless of whether or not it is character defining. Mr. Robinson thought that would apply to a roof that was highly visible and not one that was intended to be non-existent; but they still have to follow the black and white Guidelines which says that the roof shape cannot be changed.

Ms. Morrison thought that would be a legal question since the Design Guidelines were part of the LMC. She read the language, —.incorporated into the Code by reference.” Assistant City Attorney McLean stated that the BOA needed to interpret that Guideline the same as they would the LMC in terms of whether maintaining the original roof applies to areas that are non-visible. Ms. McLean pointed out that a question for the Board to determine was whether or not it is non-visible.

Craig Elliott commented on a section in the Design Guidelines, Supplemental Rehabilitation Guidelines, MSHS6, and read, —~~Roof~~top additions may be allowed. They should generally not exceed one story and should be set back from the primary façade so they are not visible from the primary public right-of-way”. Mr. Elliott pointed out that those were the things they looked at when they were determining what to do in the rehabilitation. He explained the process they had gone through to reach the project being proposed. They decided to consider a rooftop terrace as a common space because gathering spaces are being asked for throughout Old Town. After meeting with the Staff, they compromised on that element and kept the barrel roof on the corner of Heber and Park Avenue. Mr. Elliott stated that the ability to add to roofs is part of the Supplemental Rehabilitation Guidelines, and for the Main Street National Register Historic District.

Mr. Tyler noted that they went through the process of looking at whether or not they should build on top of the existing Kimball building. Even though it was more profitable, they decided not to do that for the same reasons they decided to maintain the barrel shape on the west side. The intent is to make the building look and feel similar to how it was originally constructed.

Board Member Franklin stated that based on their scope of decision-making this evening, she concurred with Sandra Morrison, the Appellant representing the

Historical Society Museum, regarding the double barrel roofs. It is a historic exterior feature of the building and it is worth keeping at it exists. Ms. Franklin appreciated Mr. Martz comment about the reuse of industrial historic buildings, and she believed the rooftop burrito was indicative of that industrial use of the Kimball garage as it was designed.

Board Member Fuegi asked if the terrace was visible at all from the Heber Avenue level. Mr. Elliott replied that generally it cannot be seen because it is pushed back, and there is a glass railing pushed back from the façade of the building. Mr. Fuegi asked what the applicant's intention was for the terrace. Mr. Elliott explained that the upper level of the addition on the corner of Main and Heber was designed to be an events facility on the second floor. When they first looked at the project they discussed whether to make it residential or another use; and they came back with the idea of supporting the Historic District with an event space on the upper level.

Mr. Tyler stated that from an economic perspective, the event space will not work without the terrace because it is not large enough to act as an event space that had practical use for everyone in the District. The only way to make it functional was to have additional outdoor space that could be utilized as part of the event space.

Board Member Fuegi was not bothered by the terrace as long as it could not be seen from Heber Avenue. However, he was concerned about the need for umbrellas to provide shade, or tents during the winter. At that point, it was questionable whether it would remain invisible on the Heber Avenue side. Mr. Elliott stated that people would be visible; and they had not discussed restrictions for use on the terrace. They were willing to have that discussion. Mr. Tyler agreed with Mr. Fuegi that some events may require umbrellas or tents. However, there would be a limited scope and no permanent impact. Mr. Fuegi did not favor tents or any similar feature for the majority of the year. Mr. Elliott clarified that there were no permanent features designed for that space.

Chair Gezelius asked for the square footage of the deck. Mr. Tyler estimated 2,000 square feet. He noted that it was pulled back from all of the ends to address the visibility issue. Chair Gezelius understood that it would only be accessed from the event space. Mr. Tyler replied that she was correct. Chair Gezelius assumed that Mr. Elliott had addressed snow and drainage issues.

Ms. Morrison address Mr. Fuegi's questions about the potential use of the deck. She noted that the Code on Main Street was recently changed to allow more permanent structures on new decks. She thought the Riverhorse was a great example of building a permanent structure on their deck every winter. She was unsure how this deck would be considered under the new Code, but tents would be acceptable.

Board Member Fuegi noted that restrictions could be put in place as part of an approval. In his opinion, neither the deck nor the roof were big issues. He went to look at the roof earlier that day and he could not see it from Heber Avenue. It could possibly be seen from higher up on Main Street, but he did not believe that would be a problem. His issue was where the majority of the public would see it, and it thought it was clear that it could not be seen from Heber Avenue, which is the most predominant view of the roof.

Chair Gezelius asked if there was agreement to keep at least one barrel? Board Member Wintzer was in agreement with Ms. Franklin that the double vaulted barrels are important for the historic. Chair Gezelius assumed that would eliminate the deck.

Board Member Franklin did not believe their purview was to decide on the deck or the design of the deck. She appreciated the deck and idea of having the deck for business practices. Her other job is to put on events all over the world. She contracts rooftop terraces everywhere and she like them. From a visual perspective, she thought the deck on top of the double barrel roof enhances the historic feature that she mentioned in her comments about looking at the industrial historical feature of this type of modern industrial buildings in Park City. She understood it raises the height, which is a separate issue, but she honors the rooftop terrace. Ms. Franklin clarified that she preferred the term “rooftop terrace” rather than “deck” because of the double barrel rooftop.

Assistant City Attorney McLean clarified that there were two items with the Appeal. One was for the double barrel roof and the other was for the deck. Item 1 of the appeal expressed concerns with the roof and Item 3 were concerns related to the deck. Ms. McLean pointed out that economic benefit is not part of the Board’s purview. Whether or not a decision affects the applicant economically should not be considered.

Director Erickson suggested that the Board discuss whether the two bay bow string arch truss roof system is part of the historic character of the building in keeping with the Design Guidelines. Following that, they should determine whether the rooftop deck complies with the Historic District Design Guidelines, and whether or not the Staff erred in their determination. The next items for discussion should be the doors on the south façade, the windows on the west façade, and the doors on the north façade.

On the issue of whether the bow string arch two bay roof system is part of the historic character of this building consistent with the Design Guidelines, he understood that Board Members Wintzer and Franklin believed it was. Chair Gezelius stated that she thought it was part of the historic character.

Board Member Robinson thought the bow string structured roofs were not intended to be an architectural feature of the building, and that was evidence by

the way they were designed to disappear behind the parapets. He was not opposed to removing one of them in order to accommodate the upper deck. He was also comfortable with the deck because it was pushed back far enough not to be visible from Heber Avenue. He has also walked the area and he agreed with Mr. Fuegi that the most important fact was what the public could see from the street level.

Board Member Fuegi agreed with Mr. Robinson that the reason for the parapet was to hide the roof structure. He did not see it as being character defining for the general view of the public.

Chair Gezelius ask Mr. Fuegi if he was in favor of saving one of the barrel roofs and allowing the deck. Mr. Fuegi replied that he was not bothered by the deck as long as it was not permanently tented and it was restricted with normal regulations.

Chair Gezelius stated that she could be convinced in terms of voting to keep one arch and allowing the rooftop deck.

Assistant City Attorney McLean asked if there was a Guideline that speaks to whether the roof should be visible or not visible. The language in the Guideline is specific that it should not be altered; however, she understood their conversation regarding visibility. Planner Grahm noted that Guideline B1.1 says, "maintain the original roof form as well as any functional or decorative elements". She explained that because the barrel vault is not visible, she did not think it was meant to be a character defining feature. However, it is a historic part of the building. That was one reason why the Staff found it was important to retain one of the barrels.

Planner Grahm stated that the next Guideline was about rooftop additions being allowed on Main Street buildings. She noted that the Guidelines are not specific as to whether the rooftop additions are limited to flat roof buildings only, or any building. The Staff had spent considerable time working through this issue. She explained that one of the reasons they allowed the rooftop terrace or deck addition was because it was so low it was not visible or adding another mass to that structure. It also allowed them to retain one of the barrel vaults. The Staff did not feel as bad about losing the second barrel because it was not visible.

Ms. Morrison noted that Planner Grahm's comments did not address Universal Guideline #9, which says new additions should not destroy historic materials. Planner Grahm asked when an addition does not destroy some historic material in order to be added on. Assistant City Attorney McLean asked if there was language that addressed visibility. Planner Grahm replied that Universal Guideline #4 talks about distinctive materials, components, finishes, and examples of craftsmanship should be retained and preserved. She did not believe it was meant to be a distinctive material and part of this building. In her

opinion, it is not a character defining feature and, therefore, it was not a distinctive feature of the building. The BOA needed to decide whether the Staff erred in that determination.

Ms. Morrison reiterated that B1.1 says to maintain the original roof form. It does not specify visible or not visible, character defining or not character defining. She stated that the Historical Society has taken the position that there are Guidelines and those Guidelines should be used to make it fair for everyone.

Chair Gezelius stated that it would never add up no matter who writes the guidelines or who interprets them. If the guidelines are so restrictive and so onerous, no one will do anything. Chair Gezelius remarked that they do not want to stop progress and they want to save historic buildings. The goal is to get the Kimball garage functional again and integrated back into the community as a useful building.

Mr. Tyler thought it was important to understand that one of the Universal Guidelines is that nothing can be done that facilitates removal from the historic district. In his letter, Kirk Huffaker states that —“The Utah Heritage Foundation expresses its support for the proposal to move forward we believe that none of the alterations proposed would precipitate the site being removed from the National Register of Historic Places”. Mr. Tyler believed that was validation that they had done the right thing.

Chair Gezelius summarized that Board Members Fuegi Robinson, and herself supported the Staff’s position. Board Members Wintzer and Franklin did not.

Chair Gezelius asked for comments on the windows. She asked if they thought the Staff’s position was too generous in allowing the applicant to replace the windows, whether it was too restrictive, or whether they supported the Staff’s determination.

Board Member Fuegi thought Mr. Elliott had raised a good point regarding restoration versus rehabilitation. In his opinion, unless windows are tight and functioning properly they are worthless. He is dealing with a set of windows on Main Street that are held together with paint. It is an ongoing maintenance nightmare, it is costly and not efficient. Mr. Fuegi thought replacing the windows was necessary in order for the building to function properly. He had looked at these windows and they were not serviceable.

Chair Gezelius asked if the other Board Members concurred with Board Member Fuegi’s comments that the Staff’s determination regarding replacing the windows is acceptable from the standpoint of maintenance and preservation of the building.

Board Member Robinson thought the key word was —serviceable”. He had also looked at the windows and agreed that they were not serviceable and should be replaced.

Board Member Wintzer stated that in reading Mr. Huffaker’s letter, he said that without further information he could not definitely conclude and agree that wholesale replacement of the steel windows on the west and north facades was the best option. If those windows could be repaired, she questioned why they had not been repaired over the years. Chair Gezelius believed there was evidence of attempts to repair those windows in the form of caulking, etc. Ms. Wintzer agreed with Board Members Fuegi and Robinson that just by looking at the windows they should be replaced.

Chair Gezelius summarized that there was consensus among the Boards to support the Staff’s determination.

Chair Gezelius called for comment on the Staff’s finding that the replacement of windows in certain places is acceptable. She asked about the lower level windows being increased in size, and whether anything in the request related to egress for fire safety. Mr. Elliott stated that there is a condition where that is an issue and it would allow for access and exiting from the lower level. They looked at it as the side of the building that was not intended to be presented to the public. They felt like it was the right location to add those windows and create the exiting needed for the lower level. Chair Gezelius clarified that putting larger windows on the service side of the building would not affect the front façade or anything historical that was visible from the two streets. Mr. Elliott replied that this was correct.

Board Member Wintzer noted that Planner Grahn had written no side light on one of the drawings. Planner Grahn explained that they allowed the applicant to change the windows to doors because it was on the rear elevation where it was not noticeable and would not affect the façade. They also asked that instead of doing side lights that they use shorter side windows to maintain the line across where the original windows were located.

Chair Gezelius asked for comment or ideas about the old service station bay area on the west facade with the corrugated metal area that is proposed to have windows that resemble the rest of the building in the front. Chair Gezelius pointed out that it was currently a blank wall. She thought it would add a great deal of light, visibility and usability to that space.

Board Member Franklin understood that if they concurred with the Staff Report and the Staff Findings that they would also be agreeing with the HDDR, specifically the historic preservation plan. She noted that the proposal is for all windows, yet the physical condition reports indicates that some of the windows are in good condition, some are in poor condition and some are in fair condition.

Mr. Elliott replied that the windows identified as good condition means that the steel has not rusted through. It did not talk about thermal performance or other activity that goes with the building.

Planner Grahn clarified that there were historic windows on this building as well as replacement windows. The replacement windows along the Park Avenue façade are in good condition. Mr. Elliott indicated the addition underneath the bay that were put in 40 years ago, and noted that the windows that were installed on Heber Avenue were in good condition. He stated that they were trying to take that façade closer to its original historic representation versus the change that was made to it. Mr. Tyler noted that the windows replaced in the 1970's do not match what the historic fenestration patterns looked like. They were trying to recreate the historic imagery, but that requires replacing all of the windows.

Board Member Wintzer asked if this was more in line with what the Historical Society would agree with if the window replacement was in accordance with the Historic District Guidelines. Ms. Morrison noted that the Guidelines indicate that the windows could be replaced if they were determined to be not useful or serviceable. She asked if it was appropriate for the applicant to make that determination or whether they should bring in an impartial expert to make that determination. Ms. Morrison stated that the intent of the Code is to keep as much historic material as possible. They want to preserve these structures for future generations. If they start allowing subtle changes they will lose more and more of the historic with each renovation project over the years.

Ms. Wintzer stated that she asked the question for clarification because she thought the Historical Society was saying that absolutely none of the windows could be changed. She was pleased that Ms. Morrison had clarified that they were only asking for an independent person to help make that assessment.

Board Member Franklin concurred with Board Member Wintzer and Ms. Morrison. Her concern was the language in the Staff report stating that all of the window systems would be replaced. Chair Gezelius asked if Ms. Franklin would prefer changing the language to —~~can~~be replaced subject to professional review”. Ms. Franklin answered yes. She agreed that the Silver Star did a beautiful job. However, she did not think the windows on City Hall had the same historical feature. Mr. Elliott pointed out that the windows on City Hall were aluminum. They were proposing a steel window that was much closer in profile. Mr. Tyler pointed out that if they left even one historic window that was in reasonably good condition, they would still have the thermal issue. The only way to address that is through replacement; otherwise they would never meet an energy code requirement.

Director Erickson noted that the last item was the Heber Avenue doors. The Staff had determined that the doors were consistent with the design guidelines. The Appellant had determined that those doors were not historic and should not

be installed. He clarified that it was the door on the south façade. Planner Grahm explained that one door was on the actual historic façade, and the other door was a relocation of a door on the 1970's addition.

Board Member Robinson referred to the 1949 photo on page 25 of the Staff report. Figure 1 was circa 1930, which showed a single door on the south façade. He asked if that was the door being discussed. Director Erickson answered yes. Chair Gezelius referred to it as door number one. She understood that it was removed and the applicant wanted to put it back. Ms. Morrison noted that the blow up of that photo she provided shows two open bays on Heber Avenue and two open bays on Park Avenue. Planner Grahm pointed out that they were discussing two separate doors. Chair Gezelius clarified that she was talking about the door on the right. Ms. Morrison stated that the Historical Society did not have an issue with that door.

The Board members did not have any issues and agreed with the Staff determination.

Chair Gezelius asked for comments on the gasoline bays.

Board Member Franklin referred to figure 8 on page 35 of the Staff report and figure 10 on page 37. She thought the depth of the bay enclosure looked different. Figure 8 appears to have a bit of an entryway that is open to the outside. Figure 10 looks like it comes to the sidewalk depth. Mr. Elliott stated that it was shown that way in the 3-D rendering. Figure 10 is a flat 2-dimensional representation which does not show the depth. He pointed out that what was shown in 3-D is how they proposed it on the floor plan.

The Board members were comfortable with the Staff's determination.

Planner Grahm summarized that they had discussed the barrel vault and the roof deck; the additional door opening on Heber Avenue; the retention of the 1976 addition beneath the overhang; the steel windows, as well as making the opening on Park Avenue transparent by going to a window instead of being corrugated metal; and the windows that would become doors in the back.

Planner Grahm asked if the Board wanted to amend the Finding of Fact #20 to state that the BOA finds that the windows are no longer serviceable due to their deteriorated state. She assumed from the discussion that they should add a Conditional of Approval stating that a professional will be asked to look at the windows.

Planner Grahm amended Finding of Fact #20 to say, —the proposal complies with specific Design Guideline B5.2, and that the replacement steel windows will be allowed because the historic windows cannot be made safe and serviceable through repairs. The BOA finds that the windows are no longer serviceable due

to their deteriorated state. Replacement windows will exactly match the historic windows in size, dimension, glazing pattern, depth, profile and material.”

Director Erickson pointed out that the Board of Adjustment was requesting a professional independent review of the historic windows to determine whether or not they are serviceable. The Finding of Fact would be subject to that review by an independent window professional as shown in the condition of approval.

Board Member Franklin preferred to change the language to —~~the~~ windows which are no longer serviceable”. When they talked about this being a much superior plan under the shadow of previous plans, she did not believe that much superior did not mean —superior”. She wanted to clarify language that would allow this project to move forward, but in a state that preserves the accurate historic nature of this building. Chair Gezelius suggested language stating that —~~the~~ BOA questions that certain historic windows are no longer serviceable or may be in a deteriorated state. The BOA will require that an independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement.”

Mr. Tyler asked who would choose the specialist. Chair Gezelius stated that the specialist would have to be acceptable to the Staff. Director Erickson explained The Staff would approve the determination of the independent professional, agree or disagree with the recommendations, and make the changes in the HDDR.

Mr. Tyler asked if the Staff makes the determination that the condition has been satisfied. Director Erickson answered yes.

Planner Grahm amended the Condition of Approval to say, —An independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement to the satisfaction of the Planning Director”.

Assistant City Attorney McLean noted that the Board had talked about placing restrictions on the rooftop deck. Chair Gezelius thought it should be subject to the same review as all other decks in the Historic District. Planner Grahm stated that a private event facility is a conditional use in the HRC zone, and it was scheduled for review by the Planning Commission in November. The Staff could let the Planning Commission know that during the appeal process the BOA was concerned about umbrellas, balcony enclosures, tents and other elements being permanently installed on the deck.

Board Member Wintzer was concerned that it would not be strong enough. She felt they whittled down the Historic District this evening for a number of reasons. Ms. Wintzer thought it was a mockery to talk about umbrellas and tents.

Chair Gezelius suggested that the Board ask the applicant and the Staff to prepare a basic set of ground rule guidelines regarding the deck use to be approved by either the Planning Director or an appropriate body. She did not believe the BOA should micro-manage that element of the deck. Director Erickson stated that the basis of their finding for the deck being in compliance with the Guidelines is that the deck had been moved back and it was not visible from public spaces. Therefore, the direction to the Planning Commission would be that as part of the conditional use process, no uses could occur on that deck which would cause visibility from those locations.

Ms. Wintzer agreed with Director Erickson's suggestion, but she pointed to Ms. Morrison's comment about the addition on the Riverhorse because the whole façade of that building was destroyed. Director Erickson stated that the Planning Commission should consider the discussion of the BOA with respect to the visibility of that deck, but he did not believe they could go more rigorous than that. He reminded everyone that one basis for the Staff to conclude that the deck was appropriate was that it did not include additional space such as a second story above the historic building. More of the historic building form was retained by not creating a second story above the bolstering truss bay, east.

The Finding of Fact is that the BOA finds that the rooftop deck is consistent with the Historic District Guidelines; however, part of the reason is that it is not generally visible from the Heber Avenue, Park Avenue, and Main Street elevations. Mr. Tyler requested that they specify permanent structures because people will be visible, as well as other things. Director Erickson suggested that they take that up with the Planning Commission.

Chair Gezelius asked about guidelines. Director Erickson stated that the Board of Adjustment action would be delivered to the Planning Commission as part of the conditional use permit. Assistant City Attorney McLean suggested that they speak to the Finding and condition it generally. Going to the Planning Commission on the special event issue is a separate impact that is not related to the Historic Guidelines. If the Board has concerns with permanent or temporary elements, and how long those items could be visible from the street are present, this would be the time to add a condition of approval with those restrictions.

Board Member Wintzer pointed out that she had not approved the removal of the double barrel roof in the discussion. She asked how that would affect her voting. Chair Gezelius stated that Ms. Wintzer could vote against the entire motion if she felt strongly about it.

Board Member Franklin asked for a condition of approval stating that in the event that this building is rehabilitated at a later time that it would be restored back to its previous double barrel roof form. Chair Gezelius replied that the BOA could not do that because they cannot tie the hands of future Board members.

MOTION: Board Member Fuegi moved to uphold the Staff Determination for 638 Park Avenue, the Kimball Garage, subject to the Findings of Fact as amended, the Condition of Approval, and the outlined Standard Project Conditions. Board Member Robinson seconded the motion.

VOTE: The motion passed 4-1. Board Members Gezelius, Fuegi, Robinson and Franklin voted in favor of the motion. Board Member Wintzer voted against the motion.

Findings of Fact – Kimball Garage

1. The property is located at 638 Park Avenue.
2. The site is designated as Landmark on the City's Historic Sites Inventory (HSI).
3. According to the Historic Sites Form, the historic Kimball Garage was constructed in 1929. The building underwent an extensive renovation that significantly altered the interior and exterior of the structure for use as the Kimball Art Center in 1975-1976. The structure was renovated again in 1999.
4. In 1979, the site was designated as contributory as part of the Park City Main Street Historic District nomination for the National Register of Historic Places.
5. The property is in the Historic Recreation Commercial (HRC) District and Heber Avenue Subzone.
6. On January 20, 2015, LCC Properties Group submitted a Historic District Design Review (HDDR) application for the Landmark property located at 638 Park Avenue.
7. On June 20, 2016, staff approved the Historic District Design Review (HDDR) application for the site.
8. On June 30, 2016, the City received an appeal of a Historic District Design Review (HDDR) application approved by the Planning Department on June 20, 2016 at 638 Park Avenue.
9. This appeal was submitted by Sandra Morrison, representing the Park City Historical Society and Museum.
10. Pursuant to LMC § 15-1-18 (D) Standing to Appeal, the Park City Historical Society and Museum has standing to appeal the HDDR final action because they submitted written comment and testified on the proposal before the Planning Department.

11. The proposal complies with Universal Guideline #3 in that the historic exterior features of a building will be retained and preserved.

12. The proposal complies with Universal Guideline #4 in that distinctive materials, components, finishes, and examples of craftsmanship will be retained and preserved. The owner will reproduce missing historic elements that were original to the building, but have been removed, such as the original entrance along Heber Avenue. Physical or photographic evidence will be used to substantiate the reproduction of missing features.

13. The proposal complies with Universal Guideline #5 in that deteriorated or damaged historic features and elements should be repaired rather than replaced. Where the severity of deterioration or existence of structural or material defects requires replacement, the feature or element should match the original in design, dimension, texture, material, and finish. The applicant must demonstrate the severity of deterioration or existence of defects by showing that the historic materials are no longer safe and/or serviceable and cannot be repaired to a safe and/or serviceable condition. The owner has demonstrated that the historic and early replacement steel frame windows are beyond repair and the owner will be replacing the remaining steel-frame windows along Park Avenue and the rear (north) elevation due to their poor condition.

14. The proposal complies with Universal Guideline #6 in that features that do not contribute to the significance of the site or building and exist prior to the adoption of these guidelines, such as incompatible windows, aluminum soffits, or iron porch supports or railings, may be maintained; however, if it is proposed they be changed, those features must be brought into compliance with these guidelines. The applicant will maintain a non-historic ca. 1976 glass addition beneath the overhang of the original fueling station. Staff finds that this addition was sensitively designed so as not to detract from the historic structure and is compatible with the historic building.

15. The proposal complies with Universal Guideline #10 in that the new additions and related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment could be restored.

16. The proposal complies with Specific Design Guideline B.1.1 in that the owner will maintain the original roof form, the western barrel vault, as well as any functional and decorative elements.

17. The proposal complies with Specific Design Guideline B.2.1 in that the primary and secondary facade components, such as window/door configuration, wall planes, recesses, bays, and entryways should be maintained in their original location on the façade.

18. The proposal complies with Specific Design Guideline B.4.1 in that the owner will maintain historic door openings, doors, and door surrounds on the Heber and Park Avenue facades.

19. The proposal complies with Specific Design Guideline B.5.1 in that the owner will maintain historic window openings, windows, and window surrounds on the primary facades.

20. The proposal complies with Specific Design Guideline B.5.2 in that the replacement steel windows will be allowed because the historic windows cannot be made safe and serviceable through repair. The BOA questions that certain historic windows are no longer serviceable or may be in a deteriorated state. The BOA will require that an independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement. Replacement windows will exactly match the historic window in size, dimensions, glazing pattern, depth, profile, and material.

21. The proposal complies with Specific Design Guideline MSHS3 in that traditional orientation with the primary entrance on Heber Avenue will be maintained.

22. The proposal complies with Specific Design Guideline MSHS6 in that rooftop additions may be allowed. The proposed rooftop deck does not exceed one story and will be set back from the primary façade so that it is not visible from the primary public right-of-way.

23. The proposed renovation and new addition meet all setbacks and has increased setbacks from the minimum towards the north side yard area.

24. Staff does not find that the proposed plan will substantially diminish the character of the neighborhood nor will it cause the structure to lose its local designation as a Landmark structure or its eligibility for the National Register of Historic Places.

25. The proposal complies with Universal Design Guidelines #9 in that the c.1976 exterior alteration does not destroy historic materials, features, and spatial relationships that characterize the site or building. The divided-light glass entry addition beneath the overhang on the west side of the building is visually subordinate to the historic building when viewed from the primary public right-of-way. The addition does not obscure or contribute significantly to the loss of historic materials.

26. The proposal complies with Specific Design Guidelines B.1. Roofs. The BOA has determined that the original roof form, consisting of two (2) barrel vaults running north-to-south are not character-defining features of the historic structure, and, thus, the applicant will only be required to maintain the western barrel-vault.

27. The proposal complies with Specific Design Guidelines B.5. Windows. The applicant will maintain historic window openings and window surrounds on the Park Avenue and Heber Avenue facades; the remaining historic and non-historic steel window will be replaced with new windows that exactly match the historic in size, dimensions, glazing pattern, depth, profile, and material. No storms are proposed at this time.

28. The proposal complies with Specific Design Guidelines D.1. Protection for Historic Structures and Sites. The addition will be visually subordinate to the historic building when viewed from the primary public rights-of-way of Park and Heber Avenue. The addition will not obscure or contribute significantly to the loss of historic materials as the applicant proposes to retain the west barrel-vaulted roof form.

29. The proposal complies with Supplemental Rehabilitation Guidelines—Main Street National Register Historic District. The proposed project will not cause the building or district to be removed from the National Register of Historic Places. The alignment and setback along Main Street are character-defining features of the district and will be preserved. Traditional orientation with the primary entrances of the new addition on Main Street will be maintained. The rooftop deck addition will not exceed one story in height and will be set back from the primary façade so that it is not visible from the primary public right-of-way. The BOA finds that the rooftop deck is consistent with the Historic District Guidelines as it is not generally visible from the Park Avenue and Heber Avenue rights-of-way.

30. Pursuant to LMC 15-1-18(G), the Board of Adjustment shall act in a quasi-judicial manner. The appellant has the burden of proving that the land use authority erred. The appellant fails to specifically indicate how staff erred.

Conclusion of Law – Kimball Garage

1. The proposal complies with the Park City Design Guidelines for Historic Districts and Historic Sites.
2. The proposal complies with the Land Management Code requirements pursuant to the Historic Recreation Commercial (HRC) District.

Order

1. The appeal is denied and Staff's determination is upheld.

Condition of Approval – Kimball Garage

1. An independent window evaluation specialist will assess and report on the existing window conditions and outline options for rehabilitation or replacement in satisfaction of the Planning Director.

Chair Gezelius adjourned the meeting at 7:32 p.m.

Approved by _____

Board of Adjustment Meeting
October 18, 2016

Ruth Gezelius, Chair
Board of Adjustment

Planning Commission Meeting
November 9, 2016
Page 28

existing service, at the main.

6. **638 Park Avenue- Conditional Use Permit for new construction of a 3,785 sf private event facility to be located on the second level of the new addition to the historic Kimball Garage.** (Application PL-16-03313)

Planner Anya Grahn reviewed the CUP application for the Historic Kimball garage at 638 Park Avenue. The applicant was requesting the CUP in order to facilitate a private event facility in a new addition.

Planner Grahn reported that the historic building would be rehabbed to create a commercial space on the main and lower levels, and there would be a new addition to the east along Main Street containing commercial space. The private event facility is proposed to be on the top floor of that commercial space. Depending on the grade, sometimes that is the second floor and sometimes it is the third floor of the building.

Planner Grahn stated that the applicant was proposing to remove one of the barrel vaulted roof forms in order to accommodate a new rooftop terrace. She noted that the HDDR approving the removal of this portion of the roof was appealed by the Park City Historical Society and Museum. However, the Board of Adjustment denied the appeal and upheld the Staff determination. The applicant was proposing 3,785 square feet of event space accessing a 477 square foot outdoor balcony, as well as the 2,530 square foot rooftop terrace.

Planner Grahn pointed out that prior the zone change this building was part of the Historic Commercial Business District, and the Kimball had paid into the China Bridge study as most of Main Street has done. It covers their parking up to a Floor Area Ratio of 1.5. However, with the new addition the FAR would only be 1.45, which is below the requirement.

The Staff found that the applicant meets all the criteria for the CUP application with several conditions of approval. One states that should any of the events go beyond what is dictated by the CUP, the applicant will apply for a special events license. Another condition requires the utility plan to be finalized at the time of the building permit to ensure that it is screened and mitigated. Any temporary structures, such as a tent, would require an Administrative CUP. In order to reduce the visibility of the deck, and the basis of the BOA determination, umbrellas, heaters or other items that would rise above the parapet and cause the deck to be visible could not be stored on the deck. They could be up during the time of the event but not stored there permanently. In one year's time, should the Planning Department receive any complaints regarding lighting, glare, traffic, etc., the Staff would

review the complaints, and if necessary, the Planning Commission could re-review the CUP.

Planner Grahn had received public input from the Museum and she had provided copies to the Planning Commission.

Tony Tyler, the applicant, believed the request was straightforward. The Kimball has been used on and off as an event center for the last 40 years, and this proposal would actually reduce the impact of the event space in this particular location. It would also move it off of Main Street to the second floor, which is another benefit. Mr. Tyler stated that they have been working with the Staff to help address conflicts and conditions and he was very comfortable with the conditions of approval as outlined.

Commissioner Campbell was unclear on the mechanism for bringing the CUP back to the Planning Commission based on complaints. When conditions of approval are placed on a project he wanted to know who they were enforced. Director Erickson stated that it was a slight variant on the conditions of approval. If the Planning Department receives complains, the condition of approval affirmatively states that the Staff may bring the CUP back to the Planning Commission. The Planning Commission can review the complaints, conduct another public hearing, and modify the conditions of approval to make sure it is mitigating according to the criteria.

Commissioner Campbell asked City Attorney Harrington if that could be done legally. Mr. Harrington stated that it was legal; however, he preferred to have the review criteria linked to a standard in terms of why it was coming back to the Planning Commission as opposed to a free for all comeback. Otherwise, it is strictly complaint based rather than standard based. Mr. Harrington pointed out that the Planning Commission could not make an applicant tear down a design, but they could add additional conditions to mitigate whatever the reason for the re-review. He stated that a one-year review would not pertain to all conditional use permits. A use is typically allowed as long as the impacts can be mitigated. The purpose of the review is to determine whether additional conditions are necessary to mitigate the impact, but not to take away the use. Design issues would have already been ruled on in the original process and would be part of the re-review.

Vice-Chair Joyce stated that for this particular application they were talking about mitigating noise, not storing items that would project above the roof line, etc. He noted that enforcement in Park City is complaint based and the Planning Commission has had many discussions regarding that issue. Mr. Harrington suggested that they distinguish enforcement from ongoing monitoring. This would impose an ongoing monitoring condition to make sure an issue is mitigated, which is different from compliance.

Commissioner Campbell preferred to leave out conditions rather than add conditions that are never followed-up. Director Erickson pointed out that the condition for this application actually has a one-year follow-up review by Staff. If approved, the Staff would be directing the Staff to follow-up after one year of operation to see if there were any issues. Director Erickson clarified that the condition was put in because this would be a second floor deck instead of the existing ground level deck. The Board of Adjustment found that the deck was not particularly visible from the street level. Based on the condition, in one year the Staff would check back to see if everything went smoothly. If they find any issues they could bring it back to the Planning Commission for additional mitigation.

City Attorney Harrington recommended amending the condition to read, "Will review any sustained complaints regarding noise violations, or unreasonable glare, light and traffic".

Vice-Chair Joyce opened the public hearing.

Sandra Morrison with the Park City Historical Society had sent a letter to the Planning Commission stating that the conditional use permit application should not be approved unless the Planning Commission concludes that the application complies with all the requirements of the Land Management Code. Ms. Morrison pointed out that the Historic District Design Guidelines, which are mandatory, say to maintain the original roof form. The Kimball garage is a Landmark structure in the Historic Sites Inventory and it is one of the most important and distinctive historic buildings in the Historic District. Ms. Morrison encouraged the Planning Commission to make every attempt possible to maintain and preserve the historic buildings. That was the purpose of the Historic Design Guidelines, and why the Guidelines say that Landmark structures should be held to the strictest interpretation. Ms. Morrison could not understand how the Board of Adjustment read, "maintain the original roof form", and still decide that half of the barrel vault could be removed. She pointed out that they were losing half of the historic roof to add 2,500 square feet of rooftop deck for events. In addition, they would be allowed to put up a tent for 70 days. For the entire winter a tent will be sitting on top of the historic Kimball garage and visible from the street and many parts of town.

Ms. Morrison requested that the Planning Commission expand Condition #15 to prohibit having a 2,500 square foot white tent on top of a historic structure after half of the roof is demolished to accommodate it.

Jim Tedford, representing Preserve Historic Main Street, stated that this group has appeared before the Planning Commission many times over the last four years. Mr. Tedford remarked that the current plan for the Kimball garage is the best plan they have seen so far, and he believed it was a good plan overall. However, his objection was the demolition of one barrel vault roof. He thought the words were clear in the Historic District

Design Guideline B1.1 “Maintain the original roof form.” Mr. Tedford thought the direction was black and white. He could not understand how the Planning Department and the Board of Adjustment could interpret it any other way. In his opinion, “Maintain the original roof form” was very, very clear. If that could be interpreted any other way, the Historic District Design Guideline is meaningless. He did not believe it was open for interpretation. Mr. Tedford thought the terrace portion of the CUP should be denied to save the one barrel vault roof because it is clearly against the Historic Design Guideline B1.1.

Hope Melville, a Park Avenue resident, had issues as to whether the requirements of the LMC were being met. She noted that the Section 15-11-5(i) of the Code requires that any material deconstruction of parts of a historic structure must be approved by the Historic Preservation Board. Ms. Melville could find nothing in the Staff report indicating that the HPB had approved destruction of one of the barrel roofs of the Kimball garage to accommodate the proposal for an events space on the outdoor roof deck. Ms. Melville asked if the provision in Section 15-11-5(i) had been met, and whether the HPB had approved the deconstruction.

Planner Grahn replied that the applicant was not required to go through the HPB deconstruction process because they were vested prior to that becoming part of the Land Management Code.

Vice-Chair Joyce clarified that the process of what goes through the HPB and using the BOA as an appeal body had recently changed. Planner Grahn stated that the change was approved by the City Council in December 2015.

Sanford Melville, a Park Avenue resident, stated that he is a full-time resident of Old Town and he lives a few blocks from the Kimball garage. He noted that the Staff report states that the proposed space will accommodate 480 people. Mr. Melville was certain that he and all of his neighbors would be hearing the noise from the events held at this facility, and their right to the quiet enjoyment of their homes will be negatively impacted. He noted that the Staff report indicates that the anticipated hours would be 8:00 a.m. until midnight, and outdoor speakers will be allowed from 11:00 a.m. to 10:00 p.m. The allowed number of days per year was unclear. Mr. Melville remarked that it was impossible to mitigate the impacts of the noise level possible from this deck facility. He pointed out that sound travels uphill. Therefore, it would not only affect those who live near the Kimball, but the noise level would also impact the residents on Rossi Hill, April Mountain, and the Aerie.

Mr. Melville stated that some people would tell him that if he lives in Old Town he should expect noise. However, one reason why he lives in Old Town is to be able to walk outside his house and participate in all of the parades and special events. He is at ground zero for special events, but it is part of the vibrancy of Old Town and he loves being part of it. Mr.

Melville emphasized that the difference with the Kimball is that these will be private events on a roof top, which is very different from an event open to the public. Mr. Melville was concerned that the applicant was asking the residents of the community to sacrifice their quality of life for the exclusive benefit of private individuals. He urged the Planning Commission to closely look at this CUP with that in mind.

Angela Mosceta was struck by the mention of the tented outdoor space. She thought this proposal was in direct conflict with the third critical City Council priority that includes energy conservation, energy and carbon reduction and green building incentives. She noted that during a recent City Council meeting the Mayor made a very concise point that it would be heating the outdoors.

Vice-Chair Joyce closed the public hearing.

Commissioner Campbell noted that if they add a condition of approval about a one-year review and all of the neighbors who expressed valid complaints this evening come back with repeated and sustained complaints, the applicant would have to come back to the Planning Commission. He wanted clarification on the next step if after a review the Planning Commission votes that a particular condition was not met.

City Attorney Harrington replied that these types of re-review conditions are difficult, and he personally disfavors them unless they are quantitative and simple. If the intent is to fully retain the right to revoke the use altogether, they should affirmatively state that intent so the applicant could either contest the condition as written or revisit their decision to move forward knowing that their investment is at risk if the CUP can be revoked. Mr. Harrington stated that if revocation is an option, they would need to revise the standards by which it could occur. The standards should be objective, such as specific of number violations, occupancy violations, health/safety violations, or similar type issues. If the list is long, it goes back to the issue of whether or not the use is compatible. Mr. Harrington pointed out that outdoor areas are difficult to enforce because of the cross-over between the private events and additional event capability. He could find nothing in the conditions that would limit the owner from applying for special public events as well.

Commissioner Campbell asked if the Planning Commission could legislate hours when a party is allowed. Mr. Harrington replied that they could if it was tied to a direct impact. It would be hard to go beyond the standard noise ordinance unless there was a specific reason for doing so. He understood that the proposal reduced the maximum occupancy allowed, but CUP approve would be enabling additional private activities without the public review that the Special Event process would entail. Commissioner Campbell understood that that was the objection of most of the neighbors. Mr.

Harrington stated that the Planning Commission could give direction to the Staff to work with the Event Staff and the applicant to try and refine it to at least be incremental with what they could get through the Special Event process.

Commissioner Campbell asked which approach would be easily defensible; ending the event at 7:00 p.m. or prohibiting the tent completely. Mr. Harrington remarked that when the Mayor made the comment that Ms. Mosceta referred to in the public hearing, many agreed with him but he was overruled by a majority of the Council. Therefore, the City would have an existing tent program for two more years.

Planner Grahn clarified that the applicant would not be eligible to apply for that program. She explained that the enclosed balcony program is only for buildings with restaurants on the second level, they would be enclosing the balcony immediately adjacent and the building is non-historic. In this case the enclosure would be over a historic building and it would not be allowed.

Vice-Chair Joyce pointed out that the enclosed balcony program applied to leaving a tent up all winter. This applicant could still erect a 5' x 14' tent without coming in for a CUP. Mr. Harrington stated that based on the current ineligibility for the program, he suggested revising Condition #8 to further restrict that use in case the enclosed balcony program expands, or they apply through a different mechanism. Mr. Harrington stated that they could word it "only as approved through a Tier 3 public hearing special event process with certain limitations".

Craig Elliott, the project architect, stated that his son was in a rock band for a number of years and he had researched the requirements for sound. He pointed out that Park City has a sound ordinance and it is measurable and quantitative. There is also an ordinance regulating days and times of use. He remarked that the conditions of approval make the applicant responsible to meet those requirements. Mr. Elliott stated that there was a measurable quantitative component as part of the approval by nature of the ordinances in place.

Regarding the tents, Mr. Elliott was unsure where 75 days came from because the temporary use permit for tents is a 14-day maximum. Vice-Chair Joyce agreed. It is five times a year for 14 days. The total number of days the tent can be erected is 70 days. Mr. Elliott did not anticipate any reason why the applicant would leave a tent up for 5 times 14 straight days.

Mr. Tyler felt like they were being unfairly targeted. They had followed the City's process and continue to get comments from members of the public regarding issues that are not part of the Conditional Use Permit. Mr. Tyler commented on a long and

arduous process with the Staff that was very productive. He went through the BOA process and the Board made the decision to uphold the Staff's determination; yet as early as 2:00 this afternoon he received a letter raising the same issues that were addressed with the BOA. Mr. Tyler found it challenging to hear continued attacks on a design that has been approved.

Mr. Tyler stated that the intent is to collectively make a development better, and they designed the project to be a benefit to the greater Park City area. He took issue with the comments regarding private events because the Kimball Arts Center used that space for private events all the time. Individual groups were allowed to use the building and the occupant loads far exceeded what he was proposing. Mr. Tyler was struggling to understand the issues surrounding mitigation of the events in this particular location.

Commissioner Campbell clarified that he was not trying to block Mr. Tyler from moving forward with his proposal because it was a great idea. His issue is placing conditions on a project that are either not followed-up on or cannot be enforced. Commissioner Campbell agreed that the Kimball Arts Center had private parties but they were held inside. This proposal moves the events out on the roof and the noise impact would be greater. As a Commissioner, he thought they should either leave it alone or place a condition that can be verified and has teeth. At that point the applicant would need to prove that they have met that condition, and if it was not met, there should be some consequence. Commissioner Campbell was open to hearing suggestions from Mr. Tyler or Mr. Elliott on ways to address it.

Mr. Tyler pointed out that the Kimball had a large open plaza on Main Street that was used for events all the time. Not all of the events were held inside. Events spilled out onto the deck, which was at the Main Street level and a good distance along Main Street. Mr. Tyler was willing to work with the Planning Commission to find a solution that addresses their concerns. He appreciated the fact that they were trying to make it quantitative so there were certain standards to follow.

Mr. Elliott noted that the largest outdoor gathering event space in Old Town was down the street at the bridge and it was very close to residential neighborhoods. He believed the impacts related to the proposal for the Kimball were minor in comparison. Mr. Harrington remarked that there have been residential conflicts with activities on the bridge.

Mr. Harrington suggested another meeting to get more clarity on the operational parameters and the restrictions.

Commissioner Thimm stated that previously the Planning Commission has spent hours talking about ways to create a condition that is enforceable and would have teeth on the other end. He did not believe they would solve that issue this evening, and he did not think it was consistent with past decisions to impose all of that on this particular project.

However, he has a strong desire to figure that out and suggested having that discussion to address the issues and come to a conclusion that could be fairly applied to projects throughout.

With regard to the barrel vault, Commissioner Thimm thought the interior of a barrel vault is very cool. Director Erickson clarified that it was actually a bow-string arch and they were taking the frames of the bow-string arches that would be eliminated and use them to reinforce the section of the bow-string arches that would remain.

Commissioner Thimm thought it was important to have respect for historic architecture. If this application had come before the Planning Commission on its own merits with nothing else in place, he would have said they could only consider if it had gone through the Board of Adjustment. He pointed out that it has gone through the Board of Adjustment. Therefore, the only topic before them was a conditional use permit for this event facility. In terms of their purview, the Planning Commission needed to honor the decision of the Board of Adjustment.

Commissioner Band agreed with Commissioner Thimm. This has gone through the BOA process and they were only looking at the conditional use permit. Given what has come before them in the past, she believed this was the best plan. It looks great and she liked the idea of having the event space.

Commissioner Band noted that the Planning Commission had just dealt with a tent for the old Talisker Restaurant and they limited it to 3 days instead of 14 days. She thought they should look at doing something similar for this project. Like everyone else, she did not like the idea of seeing a tent sitting on top of the Kimball for 14 days at a time. Commissioner Band suggested that they address that issue in a condition of approval.

Commissioner Phillips pointed out that for tent at the Talisker Restaurant the applicant had requested three days. It was not a time limit imposed by the Planning Commission. Commissioner Band recalled that the applicant asked for a shorter duration with the ability to have it up more often. She thought it was a completely different situation than a tent on top of one of the most visible historic structures on Main Street.

Commissioner Phillips noted that during that meeting with Talisker he made the comment that he personally wished they would never have tents. However, they do allow tents and everyone needs to be treated fairly. Commissioner Phillips agreed with the comments

made by Commissioner Thimm. In looking within their purview, he agreed with the Staff. Commissioner Phillips thanked the public for their comments. Each person is well respected and cares tremendously about the Historic District. He thanked them for their involvement throughout the entire process.

Commissioner Phillips addressed Ms. Morrison's comments regarding the B1.1 Guideline. He stated that the Guideline says to maintain the original roof form, but the language goes on to say "as well as any functional and decorative elements". He sees the roof as being a low file roof with parapet walls, and he questioned whether it was ever a decorative element. He suggested that the BOA may have had that same thought when they made their determination. Mr. Phillips stated that he was at the BOA meeting as the Planning Commission liaison, and he recalled that Mr. Elliott had said that the existing condition of the roofs did not meet the current Code. Therefore, the applicant would have had to do something and he thought reusing the trusses and the material on site was a good idea.

Vice-Chair Joyce had visited the site and walked around the building. When he stayed close to the building he could only see the edge of the roof and the barrel was not visible. However, as he walked up and down the street and drove in from Deer Valley to Heber Avenue, the barrel roofs were obvious. Vice-Chair Joyce was unsure how the Board of Adjustment made the decision they did.

Vice-Chair Joyce thought the Guidelines were clear. He pointed out that the City makes most people jump impossible hurdles to protect historic buildings. The fact that the roof is not strong enough was not a good enough reason. If the applicant had to spend a considerable amount of money to make it strong enough, that would be an issue between the Building Department and the applicant. He did not think it was relevant to the Planning Commission.

Vice-Chair Joyce had read the minutes from the BOA meeting and the Staff report. He asked for a quick synopsis of where the subjectivity came in and how they reached the conclusion that the roof was not visible from certain spots when the Guideline simply says not to change the roof.

Mr. Elliott stated that the Board of Adjustment had a long discussion and went through each individual item. He and Mr. Tyler presented a description of the project and used the National Park Service, three specific historic preservation briefs, as a reference to how they are used. One was gas stations, one was roofs, and he could not recall the third one. Mr. Elliott noted that Guidelines created by the National Park Service are available to help people make decisions about historic structures. When the information was analyzed, their presentation and the discussion with the Planning Staff showed that the roofs were never intended to be seen. The forms were there as a condition of the need to make a span. Mr.

Elliott reiterated that in general, they just used the standards that are applied from the National Park Service. The Board of Adjustment had a long discussion and agreed with what the applicant had presented.

Planner Grahn stated that the Guideline says that the historic roof form must be maintained. However, the guidelines for Main Street buildings talks about allowing roof top additions. Those guidelines talk about whether or not the roof top addition is seen. Planner Grahn noted that there was a discrepancy in the Code and the Staff spent significant time considering it. The decision was not made overnight. In the end they had talked to SHPO, Utah Heritage Foundation, and the City's preservation consultant. The solution was that keeping one barrel vault allows the roof to keep part of its original form. She pointed out that the rooftop terrace is largely invisible, which is good for an addition. The Staff found that the bolstering trusses were not a character defining feature because they were designed to be hidden behind the parapet so they were not visible. Planner Grahn stated that due to the topography of Park City it can be seen. The one on the west side is the most visible, which is the one they plan to maintain.

Mr. Tyler reported that Kirk Huffaker with the Utah Heritage Society had provided a letter stating that the roof form was not critical to maintaining its Landmark status.

Vice-Chair Joyce clarified that the Staff was confident that this change would not affect its Landmark status. Planner Grahn replied that he was correct. She noted that several people were willing to say that it was still eligible for the National Register despite the loss of the one barrel if they need to defend it.

Commissioner Campbell understood that as part of the CUP the Planning Commission was not supposed to be looking at the roof design or the BOA decision. He stated that if they made every applicant go through an arduous process only to overturn the decision at the last minute, no one would do anything on Main Street. Commissioner Campbell remarked that great projects that add to the vibrancy of the area need to be supported. He thought the Planning Commission should focus on the CUP rather than look at the historic design, which has already been ruled on.

Vice-Chair Joyce agreed with Commissioner Campbell about the historic design. However, his comment about encouraging vibrancy was a City Council and Chamber of Commerce issue. Commissioner Campbell agreed, but if the City Council was trying to encourage it, the Planning Commission should not use their platform to discourage it.

Vice-Chair Joyce explained the difference between the events held at the Kimball Art Center and what would occur with this new use. He pointed out that there would be more outdoor activity, it is in an area that is not as acoustically protected, it will occur more

frequently. He assumed there was likely to be more noise issues than what occurred with the old Kimball. Vice-Chair Joyce stated that he dislikes tents in Old Town, even though they are allowed by Code. He believes tents are an issue and the time period a tent can be up bothers him. It is one thing when tents are tucked between buildings, and something completely different when it is on top of the Kimball Arts building.

Vice-Chair Joyce believed this item would be continued and he requested that the applicant come back with what they would be willing to do to help mitigate the impact of a historic building looking like a campground and being loud.

Planner Grahn requested that the Planning Commission continue this to December 14th to give the Staff and the applicant time to get the conditions right. Mr. Tyler stated that his challenge was trying to start construction, but the use of the event space would have a major impact on his decision to move forward. He had not anticipated issues with the CUP because the site has historically been used as an event center. Mr. Tyler noted that outside of the noise ordinance and limiting the time frame of the tents on the terrace, he was unsure what else they could offer to mitigate the impacts. In his own interest in trying to make a risk assessment for an expensive investment, it was difficult to have this continued to a much later date. Mr. Tyler pointed out that if he has to delay construction, the building would be dark for another winter. He was trying to understand what he could do to accommodate the concerns that were raised. Mr. Tyler was willing to limit the time frame for keeping the tent up on the deck.

Based on their comments, Director Erickson believed they were down two votes with two members missing; and he was certain that either way they would end up with a split vote. He thought the City Attorney had provided good direction on how to craft the conditions and bring the permitting on the outside portion of the deck closer into alignment with a transparent public process and the ability for the public to provide input more frequently. Director Erickson suggested potential restrictions, such as whether or not to allow music on the deck versus only on the inside; and numbers and sizes of the tent. He explained that he and Planner Grahn had crafted the condition with the intention of not having the tent visible on Heber Avenue.

Director Erickson recommended that the Planning Commission continue this item to December 14th when the other two Commissioners would be present.

City Attorney Harrington stated that in an effort to ease the applicant's concern, the Commissioners could indicate in the motion their inclination to approve the CUP with direction to the Staff to refine Conditions of Approval 8 and 15 to address a mitigation plan for the impacts of tents and outdoor event use. Mr. Harrington believed they could craft operational benchmarks that are consistent with the other spaces around this location, and

give the owner the opportunity to exceed those through a public process like everyone else. Mr. Harrington thought that was a better approach than waiting for problems to occur and then regulating backwards.

Commissioner Campbell expressed his frustration with unlimited continuations. He preferred to spend the time crafting the conditions this evening so the applicant could move forward as opposed to putting them off for another month and a half, particularly given the constraints of building this time of year.

Director Erickson stated that part of the operation is occupancy; and the Commissioners could restrict the number of people on the deck. They could also restrict amplified music, or require a Tier 3 special event permit for events in excess of 100 people. They could also restrict the number of days a tent could be up.

Commissioner Band did not favor continuations for the reasons Commissioner Campbell had stated, but she thought there was a benefit to further discussion. Director Erickson had given them great examples and she would like to see a few more.

Vice-Chair Joyce believed the applicant had the support for an event facility. However, some of the Commissioners were a little reluctant about the impact to the neighborhood and the impact to a Landmark building from a historic standpoint. He thought the Planning Commission needed time to work through the issues and the impacts.

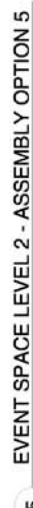
Mr. Tyler was comfortable with a continuation and he appreciated the background and the explanation. His goal is to create a great development and be a good asset to the community.

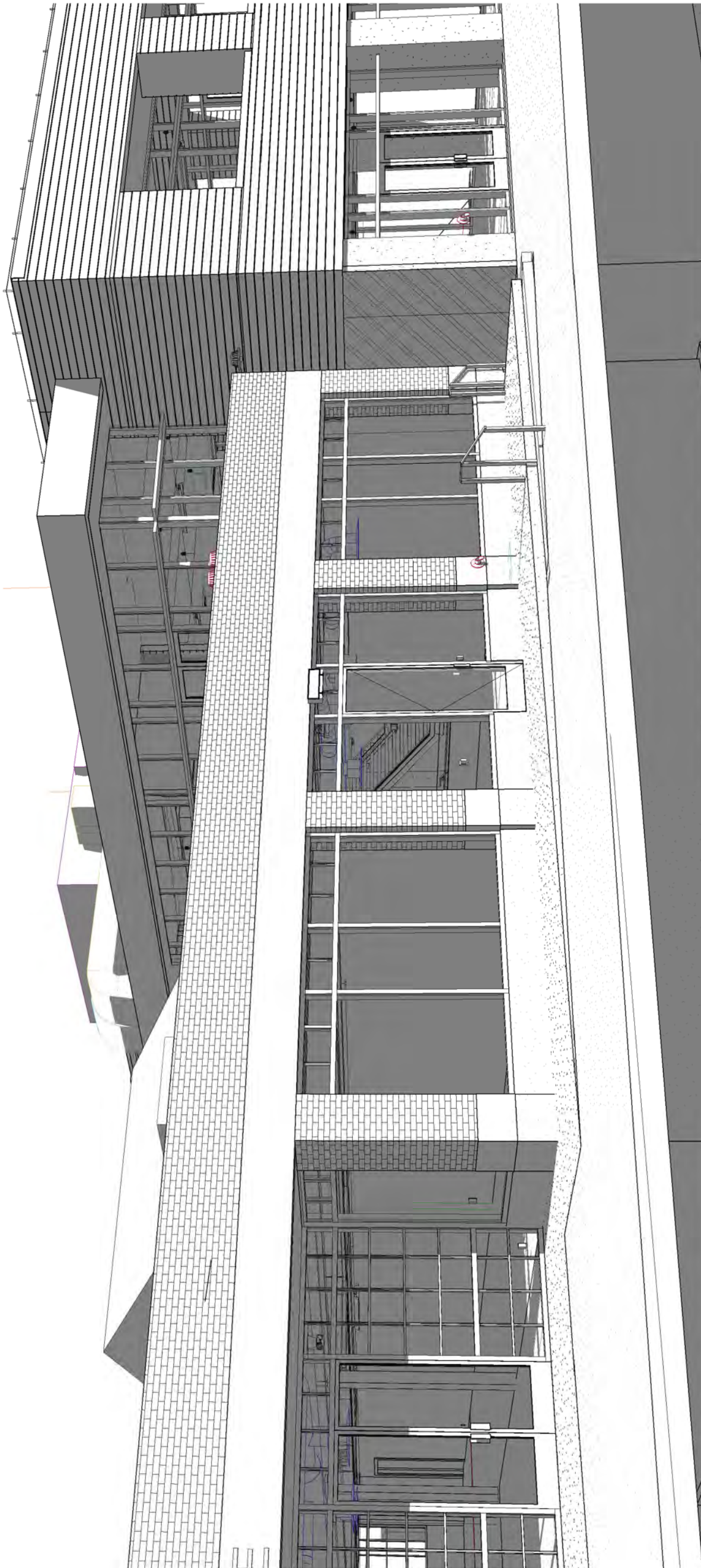
Commissioner Thimm requested that the Staff look at this as a way to create a model or template for a regulation to be considered at a later date that can be consistent and can be enforced in a fair way. The Commissioners concurred.

MOTION: Commissioner Band moved to CONTINUE 638 Park Avenue – Conditional Use Permit for new construction of a private event facility to December 14, 2016. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

7. **Tram Tower Plat Amendment – Proposal to combine Lot 2 of the National Garage Subdivision, Lot 19 and a portion of Lot 20, Block 6 of the Park City Survey and a portion of Block 1, Snyder's Addition to Park City (Parcel PC-102), and Lot 2 of the Coalition West Subdivision also known as 664, 672, and**







Submission to the Park City Planning Commission
for hearing on Wednesday November 9, 2016
Conditional Use Permit
Kimball Garage, 638 Park Ave

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Linda McReynolds
Sydney Reed
Randy Scott
Zibby Tozer

Dear Members of the Planning Commission,

The historic Kimball Garage is one of Park City's most prominent and cherished historic buildings. Our community genuinely wants to preserve our historic built environment and honor our unique history so the proposed renovation, addition to, and adaptive reuse of this iconic structure needs to meet the Land Management Code.

This Conditional Use permit application for an event space that includes "a second level 2,530 square foot rooftop terrace over the historic Kimball Garage" does not comply with all the requirements of the Land Management Code.

As stated in the Staff Report the standards for review of Conditional Use permits in the Land Management code 15-1-10 state:

D. **STANDARDS FOR REVIEW**. The City shall not issue a Conditional Use permit unless the Planning Commission concludes that:

1. the Application complies with all requirements of this LMC;
2. the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;
3. the effects of any differences in Use or scale have been mitigated through careful planning.

The rooftop terrace over the historic Kimball Garage is currently designed to demolish half the historic roof. This double-barrel roof is shown in the photo attached as exhibit A (which is page 7 of the Historic Sites Inventory for the Kimball Garage).

Removal and demolition of half the historic roof fails to meet "all the requirements of the LMC" by failing to comply with Park City's Specific Design Guidelines B.1.1 (see exhibit B)

The Design Guidelines for Historic Districts and Historic Sites are mandatory and part of the Land Management Code, since the Code itself states in LMC 15-11-11 "The Design Guidelines are incorporated into this Code by reference." (exhibit C). Further, as stated in the Guidelines,

528 Main Street, P.O. Box 555, Park City, Utah 84060
435-649-7457

The Park City Historical Society & Museum is a non-profit 501(c)3 corporation. Tax ID# 94-2792051

"Whenever a conflict exists between the LMC and the Design Guidelines, the more restrictive provision shall apply." (exhibit B, page 28 at paragraph 4)

Staff's Findings of Fact #33 in the Staff Report is in error:

#33. The design complies with the Park City Design Guidelines for Historic Districts and Sites....

The application does not comply with Specific Design Guidelines B.1.1, as demonstrated below.

Specific Guideline: B.1. Roofs

B.1.1 states "**Maintain the original roof form**, as well as any functional and decorative element." (exhibit B, page 30).

In the Staff Report, Finding of Fact #9 is in error in its assertion of the application's compliance with Specific Guideline B.1. Roofs.

#9 "The BOA [Board of Adjustment] found that the rooftop deck addition above the historic Kimball Garage was appropriate as the Design Guidelines permit construction of rooftop additions and the addition would remove one of the two barrel-vaulted roof forms. The addition was permissible because it was generally not visible from the primary public right-of-way along Heber Avenue".

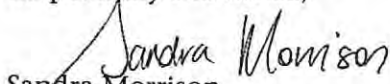
Guideline B.1.1 does not offer any exclusion or unique conditions that would allow demolition of this historic roof. The code does not say "generally not visible from the primary right-of-way", so staff and the Board of Adjustment have erred in their interpretation and application.

Further, the Design Guidelines state "Projects involving Landmark Sites must adhere to the strictest interpretation of the Guidelines..." (exhibit B, page 28, para 2). The Kimball Garage is a Landmark Site. Staff and the BOA have not met the Design Guidelines directive for the strictest interpretation of the code.

The new addition of a rooftop deck requires **destroying** half of the historic double-barrel roof. This historic and unique roof is visible from many Old Town viewpoints. Destroying half the historic double-barrel roof does not "maintain the original roof form."

We ask the Planning Commission to deny this Conditional Permit for the Private Event Facility on the rooftop terrace above the historic Kimball Garage project at 638 Park Ave. We ask the Board to direct staff to write new Findings of Fact consistent with the Land Management code and the Historic District Design Guidelines and the code requirement to "maintain the original roof form" of this Landmark Site.

Respectfully submitted,


Sandra Morrison
Executive Director

528 Main Street, P.O. Box 555, Park City, Utah 84060
435-649-7457

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exhibit A





Design Guidelines

FOR

Historic Districts

AND

Historic Sites



UTAH



June 19, 2009

Prepared

FOR

**Park City
Municipal Corporation**

BY

**Dina Williams-Blaes
Trent Jameson**



DESIGN GUIDELINES FOR HISTORIC SITES

If your structure or lot is located within one of Park City's historic zoning districts—HRL, HR1, HR2, HRM, HRC or HCB—but is not a Historic Site, you should seek guidance in the "Guidelines for New Construction in Historic Districts" section of these guidelines.

These Design Guidelines apply to all Historic Sites in Park City. Because residential, commercial, civic, and institutional buildings are found in all of Park City's six "H" zones, these guidelines are inclusive and may include sections that do not apply to your particular building or project.

The City, through the Planning Department staff, will determine when a project complies with the Design Guidelines. Projects involving Landmark Sites must adhere to the strictest interpretation of the Guidelines and must be designed and executed in such a manner as to retain designation as a Landmark Site. Projects involving Significant Sites are also held to a high standard, but because in many cases the sites have been substantially modified in the past, there is greater flexibility when interpreting the Guidelines. However, these projects must be designed and executed in such a manner as to retain designation as a Significant Site.

Compliance with the Design Guidelines is determined when a project meets the Universal Guidelines and Specific Guidelines. Because the scope of one project will differ from another, the City requires each application to meet all of the Universal Guidelines and Specific Guidelines unless the Design Review Team determines certain Specific Guidelines are not applicable.

All proposed projects must also meet the legal requirements of the Land Management Code before a building permit can be issued. Whenever a conflict exists between the LMC and the Design Guidelines, the more restrictive provision shall apply. As a result, elements such as building height, building pad and/or building footprint may be limited.

UNIVERSAL GUIDELINES

1. A site should be used as it was historically or be given a new use that requires minimal change to the distinctive materials and features.
2. Changes to a site or building that have acquired historic significance in their own right should be retained and preserved.
3. The historic exterior features of a building should be retained and preserved.
4. Distinctive materials, components, finishes, and examples of craftsmanship should be retained and preserved. Owners are encouraged to reproduce missing historic elements that were original to the building, but have been removed. Physical or photographic evidence should be used to substantiate the reproduction of missing features.

5. Deteriorated or damaged historic features and elements should be repaired rather than replaced. Where the severity of deterioration or existence of structural or material defects requires replacement, the feature or element should match the original in design, dimension, texture, material, and finish. The applicant must demonstrate the severity of deterioration or existence of defects by showing that the historic materials are no longer safe and/or serviceable and cannot be repaired to a safe and/or serviceable condition.

6. Features that do not contribute to the significance of the site or building and exist prior to the adoption of these guidelines, such as incompatible windows, aluminum soffits, or iron porch supports or railings, may be maintained; however, if it is proposed they be changed, those features must be brought into compliance with these guidelines.

7. Each site should be recognized as a physical record of its time, place and use. Owners are discouraged from introducing architectural elements or details that visually modify or alter the original building design when no evidence of such elements or details exists.

8. Chemical or physical treatments, if appropriate, should be undertaken using recognized preservation methods. Treatments that cause damage to historic materials should not be used. Treatments that sustain and protect, but do not alter appearance, are encouraged.

9. New additions, exterior alterations, or related new construction should not destroy historic materials, features, and spatial relationships that characterize the site or building.

10. New additions and related new construction should be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment could be restored.

Front yard setbacks provide a transitional space between the public street and the private building entrance. The pattern along the street created by historic setbacks is critical to defining community character.



SPECIFIC GUIDELINES

A. SITE DESIGN

A.1. Building Setbacks & Orientation

A.1.1 Maintain the existing front and side yard setbacks of Historic Sites.

A.1.2 Preserve the original location of the main entry, if extant.

A.1.3 Maintain the original path or steps leading to the main entry, if extant.

A.2. Stone Retaining Walls

A.2.1 Maintain historic stone retaining walls in their original locations.

A.2.2 Maintain the original dimensions of historic retaining walls.



Stone retaining walls and fences like these contribute to the character of the districts and help to define the street edge.



Landscaping and site grading, particularly in the front yard setback, are important elements in defining the character of the street. Unlike the example above, original grading in the front yard setback and compatible landscaping should be maintained.

A.3. Fences & Handrails

A.3.1 Maintain historic fences and handrails.

A.3.2 Historic fences and handrails may be reconstructed based on photographic evidence. The reconstruction should match the original in design, color, texture and material.

A.3.3 New fences and handrails should reflect the building's style and period.

A.4. Steps

A.4.1 Maintain historic hillside steps that may be an integral part of the landscape.

A.5. Landscaping & Site Grading

A.5.1 Maintain landscape features that contribute to the character of the site.

A.5.2 Incorporate landscape treatments for driveways, walkways, paths, building and accessory structures in a comprehensive, complimentary and integrated design.

A.5.3 The historic character of the site should not be significantly altered by substantially changing the proportion of built or paved area to open space.

A.5.4 Landscape plans should balance water efficient irrigation methods and drought tolerant and native plant materials with existing plant materials and site features that contribute to the significance of the site.

A.5.5 Landscape plans should allow for snow storage from driveways.

A.5.6 Provide a detailed landscape plan, particularly for the front yard, that respects the manner and materials used traditionally in the districts.

A.5.7 Provide landscaped separations between parking areas, drives, service areas, and public use areas including walkways, plazas, and vehicular access points.

A.5.8 Maintain the original grading of the site when and where feasible.

B. PRIMARY STRUCTURES

B.1. Roofs

B.1.1 Maintain the original roof form, as well as any functional and decorative elements.

B.1.2 New roof features, such as photovoltaic panels (solar panels) and/or skylights should be visually minimized when viewed from the primary public right-of-way. These roof features should be flush mounted to the roof.



These skylights are flush mounted and unobtrusive when viewed from the public right-of-way.

PARK CITY MUNICIPAL CODE - TITLE 15 LMC, Chapter 11 - Historic Preservation

15-11-10

Application does not comply with the criteria set forth in Section 15-11-10(A)(1) or Section 15-11-10(A)(2), the Building (main, attached, detached, or public) Accessory Building, and/or Structure will be removed from the Historic Sties Inventory. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

(d) **Appeal.** The Applicant or any party participating in the hearing may appeal the Historic Preservation Board decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Historic Preservation Board decision. Notice of pending appeals shall be made pursuant to Section 15-1-21 of this Code. Appeals shall be considered only on the record made before the Historic Preservation Board and will be reviewed for correctness.

(Amended by Ord. Nos. 09-05; 09-23; 15-53)

15-11-11. DESIGN GUIDELINES FOR PARK CITY'S HISTORIC DISTRICTS AND HISTORIC SITES.

The HPB shall promulgate and update as necessary Design Guidelines for Use in the Historic District zones and for Historic Sites. These guidelines shall, upon adoption by resolution of the City Council, be used by the Planning Department staff in reviewing Historic District/Site design review Applications. The Design Guidelines for Park City's Historic Districts and Historic Sites shall address rehabilitation of existing Structures, additions to existing Structures, and the construction of new Structures. **The Design Guidelines are incorporated into this Code by reference.** From time to time, the HPB may recommend changes in the Design Guidelines for Park City's Historic Districts and Historic Sites to Council, provided that no changes in the guidelines shall take effect until adopted by a resolution of the City Council.

(Amended by Ord. No. 09-23)

15-11-12. HISTORIC DISTRICT OR HISTORIC SITE DESIGN REVIEW.

The Planning Department shall review and approve, approve with conditions, or deny, all Historic District/Site design review Applications involving an Allowed Use, a Conditional Use, or any Use associated with a Building Permit, to build, locate, construct, remodel, alter, or modify any Building, accessory Building, or Structure, or Site located within the Park City Historic Districts or Historic Sites, including fences and driveways.

Dear Park City Residents and Members of the Planning Commission,

In just a few days a ruling from the Planning Commission could drastically change the character and culture of our town. One of the great things about living in Park City is that people get involved in the decisions which effect our community. Because I am not able to be there in person for the meeting at 5:30pm on Wednesday, December 14th at the City Council Chambers, I want to voice my deep concerns and strong objections to the following proposal.

Up for consideration is a Conditional Use Permit application for a Private Event Facility at the historic Kimball garage (formerly the Kimball Art Center building) at 638 Park Avenue. The applicant is proposing to rehabilitate the existing

historic building for Retail and other Commercial uses and ADD a new addition to the east, adjacent to Main Street. The upper level of the addition, approximately 3,785 square feet, will be reserved for a rooftop Private Event Facility for parties and events of up to 480 people.

I believe this Private Event Facility as submitted would significantly impact Park City. This proposal has the potential to add traffic, parking problems and serious issues around noise. The location of this property borders on a densely populated residential area which already bears a great deal of the burden that arise as Park City continues to grow.

Not only would this approval disrupt Old Town and Main Street but it could also encroach on other non-profits events in that area that have been a part of our community for a long time. There is also

the potential for event fatigue as well as additional manpower requirements of our police force in order to address potential noise code violations which would likely result with an event space for 480 people and the opportunity for live music nightly until 10 pm.

Old Town residents are already working hard to understand the proposed Treasure Hill project and this new Conditional Use Permit application should be rejected or revised to address the impact in this historic neighborhood area. I urge everyone to learn more about this issue and attend the meeting to voice your concerns.

Mellie Owen

1030 Norfolk Avenue

Planning Commission Staff Report



PLANNING DEPARTMENT

Subject: BD-16-22329 Appeal of Planning
Directors Determination regarding Accessory Building
Square footage at 1376 Mellow Mountain Rd

Application: PL-16-03347

Author: Makena Hawley, City Planner

Date: December 14, 2016

Type of Item: Quasi-Judicial - Appeal of Planning Director's
Determination

Summary Recommendation

Staff requests that the Planning Commission review the appeal of the Planning Director's determination on the square footage calculations at 1376 Mellow Mountain and consider upholding the Planning Director's denial of the Building Permit on grounds that the proposal exceeds the allowable square footage for the lot.

Topic

Appellant(s): David Camarata represented by Joseph Tesch

Location: 1376 Mellow Mountain Road

Zoning: Estate District (E)

Adjacent Land Use: Residential

Reason for review: Appeals of Planning Director determinations are reviewed by Planning Commission

Burden of Proof and Standard of Review

The Planning Commission is acting in a quasi-judicial manner. Therefore, like with a judge, all contact by the parties with the Planning Commission related to the appeal should be at the hearing. No "ex-parte" or one on one contact should occur.

Pursuant to LMC 15-1-18(G), the Planning Commission "shall review the factual matters de novo and it shall determine the correctness of a decision of the [Planning Director] in its interpretation of the application of the land Use ordinance." This means that the Planning Commission will review the evidence presented to the Planning Director anew and will not give any deference to the Planning Director's decisions on how to apply the facts to the law. Planning Commission review of petitions of appeal shall be limited to consideration of only those matters raised by the petition, unless Planning Commission, by motion, enlarges the scope of the appeal to accept information on other matters. The burden is on the appellant to prove that the Planning Director erred.

Background

In 1992 a building permit was approved for a new single-family dwelling to be built at 1376 Mellow Mountain Road. At that time, the house was built and it was approximately 14,100 square feet.

In 1993 the Planning Commission denied a request for a 12 lot subdivision, which was appealed to the City Council, and on June 17, 1993 the Council approved the small scale MPD with a 12 lot subdivision – The Hearthstone Subdivision (also known as The Overlook at Old Town – Please see Exhibit C and E). When the subdivision was being recorded for the 12 lots, one of the property owners, Mr. Korthoff, decided to withdraw his property, which were Lots 11 and 12 of the approved Hearthstone 12 lot subdivision, due to a trail location and other issues surrounding the subdivision. After the MPD was approved, the 12 lot subdivision went back to the Planning Commission for review on September 22, 1993 requesting that the 12 lot subdivision be reduced to 10 lots and was approved at the City Council meeting early 1994 (Please see Exhibit C – Hearthstone Subdivision).

In 1998 Mr. Korthoff re-appeared before the Planning Commission and City Council and requested to be included in the Hearthstone Subdivision with a proposal presenting a solution for a trail easement that worked for the property owner, staff and trails people. This plat amendment was approved and recorded (Please see Exhibit D – First Amendment to Hearthstone Subdivision).

In December 2005 the 1376 Mellow Mountain residents applied for and were granted a building permit for an 800 square foot addition.

On June 2, 2015 the current residents of 1376 Mellow Mountain Road applied for a building permit requesting a swimming pool enclosure (Please see Exhibit J for 2015 building permit). The building permit was approved on July 1, 2015 and on January 5, 2016 the building permit expired due to inactivity. The approval of the building permit was due to staff error using incorrect measurements that are not consistent with the LMC definition of floor area.

On February 16, 2016 the current residents of 1376 Mellow Mountain Road again applied for a building permit requesting a swimming pool enclosure (Please see Exhibit L for 2016 building permit). On April 20, 2016 the Planning Department approved the building permit (due to staff error) and on May 18, 2016 the building permit was denied by the Engineering Department (Please see Exhibit M for denial letter) due to the proposal presenting non-compliance with the First Amendment to Hearthstone Subdivision, plat note #1. The plat note was originally missed by staff in the Planning Department while comparing what was actually built to what was allowed per the plat and the LMC definition of Floor Area.

The First Amended Hearthstone Subdivision, approved in 1999 has one plat note which reads:

"1. The maximum house size for Lot 12 is 6,000 square feet. The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed."

In addition, the minutes and findings from the September 22, 1992 Planning Commission meeting where the Hearthstone Subdivision was approved indicated the following change which was adopted:

The house restriction on the Korthoff house was "as built" at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.

The suggested note regarding maximum house size for Lot 11 said:
Maximum house size on Lot 11 is "as built" at 14,100 square feet as measured by the Building Department.

Lots 11 and 12 were removed from the 1992 Subdivision and when the Planning Commission reviewed the application to add these two lots back into the Subdivision in 1998, the conditions of approval state:

2. All conditions of approval of the MPD approved June 17, 1993, still apply
6. . . . The maximum house size for Lot 11 is "as built" at 14,000 square feet (no additions resulting in additional square footage allowed; .

It is unclear why the minutes and the plat notes differ by 100 square feet from the 1992 proposal and the 1999 proposal.

The proposed pool house at the 1376 Mellow Mountain residence (Lot 11) totals 4,617 square feet.

The survey provided by the applicant determined the maximum house size to be 11,892 square feet. Therefore the proposed total square footage would equal 16,509 square feet.

On July 12, 2016 the Planning Director made a final Determination to deny the building permit (Please see Exhibit O).

On July 20, 2016 an appeal of the Planning Directors Determination was submitted (Please see Exhibit P).

Before bringing the appeal report before the Planning Commission the applicant brought up the proposal to consider the pool house as an Accessory Structure that would not be measured as part of the “restricted square footage” by the plat note.

On September 30, 2016 the Planning Director made a final Determination to deny the building permit as an Accessory Structure, due to the staff conviction that any additions of any kind would be inclusive of the plat note restriction on square footage limitations, this notice was sent on October 10, 2016 (Please See Exhibit B).

On October 20, 2016 the original appeal was withdrawn by the applicant.

On October 20, 2016 an appeal of the Planning Directors Determination regarding the accessory structure was submitted (Please See Exhibit B – please note the “delivered date” on the appeal is referring to the Planning Directors delivery date of the determination).

Appeal

The appellants are requesting the Planning Director Determination be appealed and the building permit approved based on the following reasons:

(Summarized from the appellants appeal letter, Exhibit A)

1. *The Planning Director erred in his interpretation of the LMC.*
 - a. *The Plat note does not limit the size of or prohibit construction of an Accessory Building*
 - b. *The LMC Defines “Maximum House Size”*
 - c. *The Pool Cover Building proposed is an Accessory Building and Its square footage is Not included in the Definition of Maximum House Size.*
 - d. *The Planning Director’s interpretation of the Planning Commission’s intent concerning the plat note is irrelevant.*
2. *The Directors determination also relies upon erroneous facts.*
3. *Strict construction of the plat does not prohibit any accessory building.*

Appeal Item #1: *The Planning Director erred in his interpretation of the LMC.*

The issue before the Planning Commission is whether the Planning Director erred in concluding that the Plat Note prohibits the construction of an Accessory Building on the Property. The Planning Director correctly concluded that the pool cover building is an Accessory Building. The Planning Director incorrectly concluded, however, that the square footage of an Accessory Building is considered part of the Maximum House Size or “Floor Area, Gross Residential” where the house and Accessory Building are purportedly connected by a patio and deck.

In particular, the Planning Director erroneously concluded that the pool cover building in this case should be considered part of the “Floor Area, Gross Residential” under the LMC. While the Planning Director correctly observed that the pool cover building is an Accessory Building that is “separate from the principal

Building,” he erred by ultimately concluding that the construction of an Accessory Building would constitute an increase in Maximum House Size that is prohibited by the Plat Note.

Staff Response:

The Planning Director was correct in referring to the Pool House as an Accessory Building (per § 15-15 1.3) as it is on the same lot as the principal building, it is clearly incidental to, and customarily found in connection with such principal building, not a dwelling unit, and it is operated and maintained for the benefit of the principle use.

Below are LMC definitions used to evaluate Maximum House Size:

1.168 **MAXIMUM HOUSE SIZE.** A measurement of Gross Floor Area.

1.107 **FLOOR AREA.**

- A. **Floor Area, Gross Residential.** The Area of a Building, including all enclosed Areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet¹, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.

Staff has consistently used the definition of Floor Area to determine the square footages of buildings, and has used it to calculate the square footage of houses when there are LMC maximum regulations or when a plat note has restrictions on it.

Staff refers to the Plat note which states:

“...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.”

Staff believes the pool house to be considered part of the floor area due to the plat note portion, stating *“no additions resulting in additional square footage over 14,000 sq. ft. allowed”*. The plat note does not state specifically whether the word “addition” is considered to mean “addition to the principal house” or an addition of any kind resulting in square footage over 14,000 square feet.

Furthermore, providing proof from past meeting minutes, staff has found that the house size limitations did have intention for the plat notes. From the Planning Commission Meeting minutes from September 22, 1993 (The Original Hearthstone Subdivision, Please see Exhibit G) the following is quoted:

“Hearthstone Subdivision – Final Plat (Aerie Drive and Mellow Mountain Road) – Jack Johnson Co.

The staff recommended approval with changes in the conditions of approval as outlined in the public hearing.

Chairman Bruce Erickson clarified that the changes were:

Two-foot but not wider than four-foot paths.

Revision of the setback on Lot 2 to 35 feet.

The house restriction on the Korthoff house was “as built” at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.”

(Please See Exhibit G for minutes)

During the same meeting the Conditions of Approval were noted and COA #3 reads:

3,500 sq. ft. Lots 4, 5

4,000 sq. ft. Lots 3, 6

5,000 sq. ft. Lots 1, 2, and 9

6,000 sq. ft. Lots 7, 12

6,500 sq. ft. Lots 8, 10

Maximum house size for Lots 11 is “as built” at 14,100 sq. ft. as measured by the building department.

As of 1992, the Building Dept. had already done a square footage calculation which came to a total of 14,122 square feet. (Please see Exhibit F).

The intent from the original documents is not to add anything to the “as built” size therefore staff concludes that the Plat note prohibits the construction of an Accessory Building on the property.

To elaborate, after reading the minutes, staff has found that the intent was that the house on Lot 11 was not to be expanded at all. Nonetheless the actual recorded note only reads that 14,000 square feet is the maximum square footage allowed which the Planning Department would measure per the LMC. Essentially, if the note specified the house stay “as built” as they were referring to in the minutes, Planning staff would conclude no additions of any kind. Since it doesn’t specify the “as built” portion, Planning staff would just restrict the owners to the 14,000 sq. ft. max as defined by the LMC. This allows the owners an additional square footage of up to 2,108 square feet.

Appeal Item #1-A:

*The Plat note only limits the “maximum house size” to 14,000 square feet. There is no prohibition in the Plat Note, or otherwise contained on the Plat, that prohibits the construction of an Accessory Building. Moreover, the LMC does not prohibit the construction of an Accessory Building on the Property. Indeed, as the Planning Director even concluded in his Director’s Determination, “[t]here is no restriction on the number of Accessory Buildings on a Lot.” **Directors***

Determination, attached as Exhibit E (of Appeal). Accordingly, the Planning Director erred when he determined that the Plat Note prohibited the construction of an Accessory Building.

Staff Response:

The LMC does not restrict the number of Accessory Buildings on a lot, however sometimes plats are given stricter regulations to help uphold a certain standard for subdivisions. It is not specified if the “addition” is specifically to the house or in general. Moreover, after further research into past minutes the intent was clear that the house was supposed to stay “as built” therefore the Planning Department is simply holding the Property Owner to plat notes which were agreed upon and recorded when the plat was approved by the City Council and recorded in 1998.

Appeal Item #1-B: Section 15-15-1.168 of the LMC defines “Maximum House Size” as: A measurement of Gross Floor Area. Thus, the Planning Director erroneously concluded that “[t]he LMC does not have a definition of maximum House Size...” ***Director Determination, attached as Exhibit E (of Appeal).***

Staff Response:

Two of the main definitions are as follows:

15-15 Definitions calls 1.168 MAXIMUM HOUSE SIZE. A measurement of Gross Floor Area.

1.109 FLOOR AREA.

- A. *Floor Area, Gross Residential.* The Area of a Building, including all enclosed Areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.

Due to the plat note’s restrictions:

“...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.”

As we know the “maximum house size” or “gross residential floor area” is discussing the maximum amount of square footage allowed for the house. The portion of the plat note which reads “...no additions resulting in additional square footage over 14,000 square feet allowed” is the portion which the Planning Department made the determination that the accessory building, connected to the ‘primary building’ or not, would be additional square footage which would result to square footages going over the allotted 14,000 square feet.

Appeal Item #1-C: *The Pool Cover Building proposed is an Accessory Building and its Square Footage is **Not** Included in the Definition of Maximum House Size.*

While the LMC does not define "Gross Floor Area," it does define "Floor Area" including:

"Floor Area, Gross Residential." LMC Section 15-15-1.109. "Floor Area, Gross Residential" is:

The Area of a Building, including all enclosed Areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to maximum Area of 600 square feet, are not considered Floor Area, Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.

LMC Section 15-15-1.109 (emphasis added). Thus, "Floor Area, Gross Residential" only includes the area in a single building (i.e., "a Building") that is measured from the "finished surface of the interior of the exterior boundary walls." LMC Section 15-15-1.109.

Notably, the definition of "Floor Area, Gross Residential" does not include either an Accessory Building, or the surface area of the interior of an Accessory Building. Likewise, it does not include Buildings that are connected by decks, patios or any Structure.

Moreover, the definition of "Accessory Building" clearly identifies that it is "[a] building on the same Lot as the principal Building...that is clearly incidental to, and customarily found in connection with such principal Building, such as detached garages, barns, and other similar Structures.. .operated and maintained for the benefit of the principal Use; not a Dwelling Unit...." In other words, an Accessory Building, by definition, is distinct from the main Building or house, and a separate Building. Thus, the very definition of an Accessory Building identifies that it is separate. In contrast, the Planning Director's conclusion suggests that the Gross Residential Floor Area may extend beyond the "finished surface of the interior of the exterior boundary walls." This conclusion simply contradicts the plain definition of "Floor Area, Gross Residential" under the LMC.

The Planning Director also erroneously concluded that the Accessory Building (or pool cover building), while separate from the principal Building, is "connected by a deck and patio which are excluded from the Floor Area definition." This conclusion is not only factually incorrect (as set forth more fully below), but is also an incorrect application of the LMC that erroneously determines that a deck or patio can connect multiple Buildings on a Lot for the purposes of determining the "Floor Area, Gross Residential" or House Size. This interpretation clearly violates the plain definition of "Floor Area, Gross Residential" which limits the measurement to a single Building and to the area between the internal walls of that Building. There is no provision within the definition of "Floor Area, Gross

Residential," or the LMC in general, that includes Accessory Building or Buildings that are connected by a patio or deck. Consequently, the Planning Director erred in his unique application of the definition of "Floor Area, Gross Residential" and "Maximum House Size" and the Planning Commission should reverse and vacate his determination⁴.

Staff Response:

Staff finds the plat note restriction does not specify the specific house size limit, however a maximum square footage for the lot. The uniqueness of this plat note is that unlike the maximum house size restriction for Lot 12, where it simply concluded that the "house size for Lot 12 is 6,000 square feet", the plat note restricting Lot 11 specifies that "with no additions resulting in additional square footage over 14,000 square feet allowed".

Corresponding to appeal item #1, looking further into intent of plat note, it was clear from Planning Commission minutes, giving a positive recommendation to the plat, that the purpose of the plat note was to restrict the house to an "as-built" structure with no more additions to the lot.

Appeal Item #1-D: *The Planning Director's Interpretation of the Planning Commission's Intent Concerning the Plat Note is Irrelevant. The Planning Director also incorrectly based his determination on what he interpreted was the "intent of the Planning Commission." In particular, the Planning Director erred when he concluded, "[b]ased on the Planning Commission minutes, we find that the intent of the Planning commission was to limit the construction on this site to the area constructed at the time of the Plat." Director Determination, attached as Exhibit E (of Appeal). Most importantly, the unstated "intent" of the Planning Commission is totally irrelevant. How is any owner of property to know what restrictions exist if he/she must first scour Planning Commission minutes to try to glean what their unwritten intent was? That can't be the rule. Rather, the only relevant issue is whether that alleged intent is stated on the plat which was approved by ordinance, not by the Planning Commission, but by the City Council. No intent to exclude Accessory Buildings is expressed anywhere in the approving ordinance enacted in 1998.*

Recapping, first, the "intention of the Planning Commission" is irrelevant as the plat notes reflect the final decisions of the City. See generally, LMC 15-1-8, on file with the City; see also Planning Commission Minutes dated November 18, 1998, attached as Exhibit E (of Appeal) (memorializing the Planning Commissions' positive recommendation of the proposed plat amendment to amend the Hearthstone Subdivision to include Lots 11 and 12). Second, the Plat Note makes no reference to nor indicates that construction is limited to the site are "constructed at the time of the Plat." Indeed, the Plat Note only states, "...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed." As a result, the Planning Director erred in his interpretation of the Plat Note as well as basing his

decision on a purported intent gleaned from the Planning Commission Minutes in 1993. Accordingly, the Planning Commission should reverse and vacate the Planning Director's Determination.

Staff Response:

The Planning Department does not expect any property owner to scour minutes from old Planning Commission/City Council minutes. Staff finds that the common interpretation of plat notes suffices for lot restriction clarifications. Conversely, in the occurrence of a disagreement on the interpretation of the plat note the minutes do exist for this exact reason, to help clarify the direction that was intended for the lot or development when it was approved originally.

In addition, the lack of specific restrictions does not mean that anything not mentioned is an allowed use. The plat note clearly states that no additions, resulting in additional square footage are allowed over 14,000 square feet and the Planning Department would hold all property owners to the same level of obligation to fulfill the plat note in which was approved by Ordinance.

To further clarify the specificity of this situation, if the proposed Accessory Structure was proposing a square footage that kept the overall gross floor area square footage under the allotted 14,000 square feet, the Planning Department would have most likely approved the building permit because it fits within the plat note restrictions. There would have been no need to review past minutes or building permits.

Of course, after further review we found the intent of the plat note to keep the house "as built", which, like Mr. Tesch states, is not on the approved Ordinance which staff can agree with. Where staff differs with Mr. Tesch is the fact that Lot 11 is allowed no additional square footage over 14,000 square feet.

Appeal Item #2: *The Directors determination also relies upon erroneous facts. The Planning Director incorrectly concluded that a "deck and patio" connects the house to the proposed pool cover building. In August 2016, Petitioner requested only that the Planning Director determine whether a "redesign [of] the [pool cover] building as an Accessory Building" would be permitted. See Request, attached as Exhibit F (of Appeal). No redesign was attached to the request for decision. Accordingly, the Planning Director's conclusion is without factual basis that the house and pool cover building are connected.*

In addition, the Planning Director's conclusion that an Accessory Building becomes part of the house if it is connected by "a structure" (i.e., a patio or deck) is a unique stretch and interpretation of the LMC. Indeed, under the logic applied by the Planning Director, if a patio constitutes a Structure that connects Buildings with combined "Floor Area, Gross Residential," similarly, a simple sidewalk could be considered a structure that connects Buildings. Is a sidewalk connecting a distant garage sufficient to include the garage as part of the main building? Moreover, under the Planning Director's determination, how do you measure or

define "connected?" If, for instance, the Accessory Building is one inch away from the patio, is it connected? If the redesign is one inch away from the patio, is it "connected" thereby creating an enlarged "Floor Area, Gross Residential?"

Although not before the Planning Director, the beginning of the actual constructed pool measures (although not precise) about 75'-80' from the house. Moreover, at present, if the pool cover building is constructed on the nearest edge of the pool, it is approximately 35 feet from the end of the patio. See Photographs, attached as Exhibits G through J (of Appeal). In short, between 70 and 80 feet separate the edge of the pool and the house with partial hardscape, landscape, a hot tub and raw dirt, between the main building and the pool. Thus, the notion that the pool cover building and the house are in any way connected is without factual support.

Accordingly, the Planning Commission should reverse and vacate the Planning Commission's decision.

Staff Response:

Whether the structures are connected or not by a patio or deck, this does not change the fact that the primary house and the accessory structure would result in an excess of 14,000 square feet measured by Gross Floor Area which staff finds would not comply with the plat note restriction.

Appeal Item #3: *Strict construction of the plat does not prohibit any accessory building. On or about December 10, 1998, after a public hearing before the City Council, Park City Municipal Corporation passed Ordinance 98-48, approving the Amended Plat, and its notes, that amended the original Hearthstone Subdivision. See First Amended Plat, attached as Exhibit D (of Appeal). In general, an ordinance that restricts a property owner's common law right to an unrestricted use of land is strictly construed against prohibition of use of private property. See Brown v. Sandy City Board of Adjustment, 957 P.2d 207, 210-11 (Ut. Ct. App. 1998); Patterson v. Utah County Bd of Adjustment, 893 P.2d 602, 606 (Ut. Ct. App. 1995). As a result, when reviewing an ordinance a reviewing body first "looks to the plain language., .to guide [its] interpretation." Brown, 957 P.2d at 210-211. "Only if the ordinance is ambiguous need we look to legislative history to ascertain legislative intent." Id. See also the recently decided case of Colosimo v. Gateway Community Church, 2016 UT App 195 (2016).*

In this instance, the plat note concerning "house size" should be strictly construed. The plain language of the plat note only restricts the "house size." There is no restriction prohibiting the construction of an Accessory Building. Accordingly, the Planning Director's reliance on gleaned, but not stated prohibition of Accessory Buildings in Minutes from a Planning Commission Meeting held five years earlier (1993) is erroneous and his determination should be reversed and vacated.

Staff Response:

Staff agrees that reviewing the plain language to guide interpretation is fair and consistent with how the Planning Department regulates plat notes towards restricted lots. The dispute is over whether the plain language is speaking toward limiting “house size” or “square footage”. Staff has found that the limitation, provided by the plat limits the square footage to 14,000 square feet total – no additions resulting in additional square feet allowed. If the proposed Accessory Structure kept the square footage (calculated by the Planning Department according to Gross Floor Area) less than 14,000 square feet this building permit would have likely been approved.

Notice

The property was legally noticed in the Park Record on November 30, 2016 and the property was posted per noticing requirements in LMC 15-1-21 Notice Matrix.

Public Input

Staff has received letters of support from neighbors provided by the applicant (Please see Exhibit P).

Alternatives

- The Planning Commission may affirm the Planning Director’s decision to deny in whole or in part the Building Permit BD-16-22329 as conditioned or amended; or
- The Planning Commission may reverse the Planning Director’s decision and approve t in whole or in part the Building Permit BD-16-22329 as conditioned or amended and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on the appeal of the Building Permit BD-16-22329 to a date certain.

Recommendation

Staff recommends the Planning Commission review the appeal and consider affirming the Planning Director’s decision to deny the Building Permit BD-16-22329 according to the findings of fact, conclusions of law and order below.

Findings of Fact

1. The subject property is located at 1376 Mellow Mountain Rd.
2. The subject property is located in the Estate (E) District.
3. A single family dwelling currently exists on the property.
4. A single-family dwelling and Accessory Building and Uses are permitted Uses in the E zone.
5. The approved plat is First Amendment to Hearthstone Subdivision.
6. 1376 Mellow Mountain Road is Lot 11 of the First Amendment to Hearthstone Subdivision. The only plat note on the First Amendment to Hearthstone Subdivision reads “1. *The maximum house size for Lot 12 Is 6,000 square*

feet. The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.”

7. In 1992 a building permit was approved for a new single-family dwelling to be built at 1376 Mellow Mountain Road. At that time, the house was built and it was approximately 14,100 square feet.
8. The current calculation of square footage by the Planning Department per the survey provided by the applicant determined the maximum house size to be 11,892 square feet.
9. The proposed pool house at the 1376 Mellow Mountain residence (Lot 11) totals 4,617 square feet.
10. The survey provided by the applicant determined the maximum house size to be 11,892 square feet. Therefore the proposed total square footage would equal 16,509 square feet.
11. Staff has consistently used the definition of Floor Area to determine the square footages of buildings, and has used it to calculate the square footage of houses when there are LMC maximum regulations or when a plat note has restrictions on it.
12. If the pool house proposed a square footage that equated to less than 14,000 square feet for Lot 11, the building permit could be approved providing it met all other LMC requirements.
13. The LMC definition for Maximum House Size is “A measurement of Gross Floor Area.”
14. The LMC definition of Floor Area, Gross Residential is “The Area of a Building, including all enclosed Areas, Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet¹, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.”
15. In the Estate zone the LMC does not specify that an Accessory Unit should be included in floor area.
16. The determination was based on the plat note stating “no additions resulting in additional square footage over 14,000 square feet”.
17. The minutes and findings from the September 22, 1992 Planning Commission meeting where the Hearthstone Subdivision was approved indicated the following change which was adopted: ‘The house restriction on the Korthoff house was 11 “as built” at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.’
18. The term “As Built” commonly refers to the plans created after construction of the building is complete.
19. Lots 11 and 12 were removed from the 1992 Subdivision and when the Planning Commission reviewed the application to add these two lots back into the Subdivision in 1998, the conditions of approval stated: (COA #2) All conditions of approval of the MPD approved June 17, 1993, still apply (COA #6) The maximum house size for Lot 11 is “as built” at 14,000 square

- feet (no additions resulting in additional square footage allowed; .
20. From the Planning Commission Meeting minutes from September 22, 1993 (The Original Hearthstone Subdivision, Please see Exhibit G) the following is quoted:
“Hearthstone Subdivision – Final Plat (Aerie Drive and Mellow Mountain Road) – Jack Johnson Co.
The staff recommended approval with changes in the conditions of approval as outlined in the public hearing.
Chairman Bruce Erickson clarified that the changes were:
Two-foot but not wider than four-foot paths.
Revision of the setback on Lot 2 to 35 feet.
The house restriction on the Korthoff house was “as built” at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.”
21. During the same meeting the Conditions of Approval were noted and COA #3 reads:
3,500 sq. ft. Lots 4, 5
4,000 sq. ft. Lots 3, 6
5,000 sq. ft. Lots 1, 2, and 9
6,000 sq. ft. Lots 7, 12
6,500 sq. ft. Lots 8, 10
Maximum house size for Lots 11 is “as built” at 14,100 sq. ft. as measured by the building department.
22. Whether the structures are connected or not by a patio or deck, this does not change that the primary house and the accessory structure would result in an excess of 14,000 square feet measured by Gross Floor Area which staff finds would not comply with the plat note restriction.
23. On June 2, 2015 the current residents of 1376 Mellow Mountain Road applied for a building permit requesting a swimming pool enclosure (BD-15-21224).
24. The building permit (BD-15-21224) was approved on July 1, 2015 and on January 5, 2016 the building permit expired due to inactivity.
25. On February 16, 2016 the current residents of 1376 Mellow Mountain Road again applied for a building permit (BD-16-22329) requesting a swimming pool enclosure.
26. On April 20, 2016 the Planning Department reviewed the building permit (BD-16-22329) and did not find any issues with it; and on May 18, 2016 the building permit was denied by the Engineering Department due to the proposal presenting non-compliance with the First Amendment to Hearthstone Subdivision, plat note #1.
27. On September 30, 2016 the Planning Director made a final Determination to deny the building permit as an Accessory Structure, due to the staff conviction that any additions of any kind would be inclusive of the plat note restriction on square footage limitations, this notice was sent on October 10, 2016.
28. Once Building, Planning, and Engineering Departments sign off on a requested building permit application, the building permit is finalized and is issued.

29. The Findings in the Analysis section of this report are incorporated herein.

Conclusions of Law

1. Using the Land Management Code definitions to define floor area to equate to house size (per the plat) the floor area of the existing house at 1376 Mellow Mountain Road equates to 11,892 square feet.
2. If the building permit is to be approved the lot would contain a total square footage of 16,509 square feet.

Order

1. The appeal is denied and the proposed building permit cannot be issued.

Exhibits

- Exhibit A - Appeal
- Exhibit B - Notice of Planning Director Determination
- Exhibit C - Hearthstone Subdivision
- Exhibit D - First Amendment to Hearthstone Subdivision
- Exhibit E - Amendment to Hearthstone Subdivision name – The Overlook at Old Town
- Exhibit F - Building Department Plan Check and Correction Sheet from 1992
- Exhibit G - Planning Commission Meeting Minutes from September 22, 1993 – Approving the Hearthstone Subdivision
- Exhibit H - Planning Commission Meeting Minutes from November 18, 1998 approving the First Amendment to the Hearthstone Subdivision
- Exhibit I - City Council staff Report December 10, 1998
- Exhibit J - 2015 Building Permit Plans
- Exhibit K - 2016 Building Department Plan Check Sheet for BD-16-22329
- Exhibit L - 2016 Building Permit Plans
- Exhibit M - Engineering's formal denial of Building Permit BD-16-22329
- Exhibit N - Survey plan of 1376 Mellow Mountain Road provided by applicant
- Exhibit O – Original Planning Director Determination Letter
- Exhibit P – Public Comment support letters from neighbors of 1376 Mellow Mountain Road

Exhibit A - Appeal

Joseph E. Tesch (A3219)
Stephanie K. Matsumura (10370)
TESCH LAW OFFICES, P.C.
314 Main Street, Suite 201
P.O. Box 3390
Park City, Utah 84060-3390
Telephone: (435) 649-0077
Facsimile: (435) 649-2561
joet@teschlaw.com
stephaniem@teschlaw.com

**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION**

DAVID CAMARATA,
Petitioner

V.

PARK CITY PLANNING DIRECTOR,
Respondent

**PETITION/ NOTICE OF APPEAL OF
PLANNING DIRECTOR
DETERMINATION OF
SEPTEMBER 30, 2016 (DELIVERED
OCTOBER 10, 2016)**

PROJECT NUMBER: BD-16-22329

Petitioner Information:
David Camarata
1376 Mellow Mountain Road
Park City, Utah 84060
Telephone: 435-615-1591

COMES NOW, Petitioner David Camarata, owner of the residence located at 1376 Mellow Mountain Road, Park City, Utah, by an through his attorney Joseph E. Tesch and Stephanie K. Matsumura of Tesch Law Offices, P.C. and hereby appeals the Notice of Planning Director Determination dated September 30, 2016 (but by stipulation of the Planning Director not delivered until October 10, 2016) ("Director Determination"), concerning the determination of "plat note

regarding house size for Lot 11 of the First Amendment to Hearthstone Subdivision,” upon the following grounds and upon such other grounds as may come to light¹:

RELEVANT FACTS

1. Petitioner David Camarata owns the residence located at 1376 Mellow Mountain Road, Park City, Utah (“Property”), also known as Lot 11 of the Hearthstone Subdivision.
2. Planning Director relies upon minutes of a Planning Commission meeting wherein prior to the Petitioner’s ownership, on or about September 22, 1993, the Planning Commission approved, with conditions, the Hearthstone Subdivision, Final Plat that included twelve different lots. *See Minutes of September 22, 1993 Minutes*, attached as Exhibit A.
3. Among the conditions for that approval was a “[m]aximum house size on Lot 11 is ‘as built’ at 14,100 square feet as measured by the Building Department.” *Id.* at Minutes Page 15.
4. On or about June 15, 1994 the Hearthstone Subdivision Plat (“Original Plat”) was recorded and, notably, did not include Lot 11 since a request was made to remove Lots 11 and 12 from the final subdivision plat. *See Original Plat dated June 15, 1994*, attached as Exhibit B.
5. Over four years after the Original Plat was recorded, on or about November 18, 1998, the Planning Commission considered whether to recommend to the City Council approval of a subdivision and plat amendment that would add Lots 11 and 12 to the Hearthstone Subdivision as originally contemplated in 1993. *See Minutes dated November 18, 1998*, attached as Exhibit C.
6. After a public hearing, the Planning Commission made a positive recommendation for the proposed plat amendment with certain conditions. *Id.*

¹ It is noted that the Director Determination concerned two issues. Petitioner is only appealing one of the two determinations concerning the interpretation of the plat note as set forth more fully below (or Paragraph 2 of the Director’s Determination). Petitioner is not appealing the decision contained in Paragraph 1 of the Director’s Determination Letter.

7. One of the conditions of approval was that the amended plat include a note that “[t]he maximum house size for Lot 11 is ‘as built’ at 14,000 square feet (no additions resulting in additional square footage allowed).” *Id.*

8. The First Amendment to the Hearthstone Subdivision Plat was eventually approved by the City Council as an Ordinance and recorded on July 13, 1999 and contained the following plat note:

NOTE

1. ...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.

(“Plat Note”) *See First Amended Plat*, attached as Exhibit D.

9. Notably, nothing on the Amended Plat prohibits accessory buildings or limits the size of an accessory building.

10. By stipulated date, on or about October 10, 2016 the Planning Director issued his Director’s Determination to the Petitioner.

11. The Director’s Determination contains two decisions:

- a. That the “pool cover building” proposed by the Petitioner is considered an “Accessory Building” under the Land Management Code (“LMC”); and
- b. That the applicable plat note restricts “maximum house size” to “14,000 square feet” and that the proposed “pool cover building” would be considered part of the “Floor Area” and, therefore, included in the plat limitation of “Maximum House Size.”

12. With regard to the first determination, the Director reasoned that the “pool cover building” is an “accessory building” because of the location of the “pool cover building” and given the definition of “accessory building” under the LMC. We do not appeal this determination.

13. In particular, the LMC defines “Accessory Building” as:

- 1.3 **Accessory Building.** A building on the same Lot as the principal Building and that is:
- A. clearly incidental to, and customarily found in connection with such principal building, such as detached garages, barns, and other similar Structures that require a Building Permit;
 - B. operated and maintained for the benefit of the principal Use;
 - C. not a Dwelling Unit; and
 - D. also includes Structures that do not require a Building Permit, such as sheds, outbuildings, or similar Ancillary Structures.

*See Land Management Code Section 15-15-1.3, on file with the City.*²

14. The Planning Director also observed that there is “no restriction on the number of Accessory Buildings on a Lot” and concluded that, “a Pool Building at the referenced location meets the criteria for an Accessory Building.” *See Director Determination Letter dated September 30, 2016, attached as Exhibit E.*

15. Therefore, the Planning Director concluded the “pool cover building,” as proposed by the Petitioner, is an Accessory Building under the LMC.

16. In other words, the Planning Director determined that the “pool cover building” is a separate building “on the same Lot as the principal Building.” *See LMC Section 15-15-1.3.*

17. It is noted that the LMC recognizes different types of buildings, including:

- A. **Building, Attached.** A Building connected on one (1) or more sides to an adjacent Building by common Party Wall with a separate exterior entrance for each Building.
- B. **Building, Detached.** Any Building separated from another Building on the same Lot or Parcel.
- C. **Building, Main.** The principal Building, or one of the principal Buildings on a Lot that is used primarily for the principal Use.

LMC Section 15-15-1.35, on file with the City.

18. With regard to the Planning Director’s second determination concerning whether an Accessory Building is controlled by a plat note, the Planning Director made the following observations:

² Notably, “Accessory Use” is defined under the LMC as “[a] land Use that is customarily incidental and subordinate to the primary Use located on the same Lot.” *LMC Section 15-15-1.4, on file with the City.*

- a. That “[t]he LMC does not have a definition of maximum House Size, nor does the specific approval of this subdivision...[but that] [t]he Planning Department uses the LMC definition of Floor Area, gross residential[;]”
- b. That the LMC defines “Floor Area, gross residential...[as] all areas of the Building including all enclosed Areas and excludes decks patios, and Balconies[;]”
- c. That it “could be argued that the Pool Building Enclosure is an enclosed Area and therefore subject to the Floor Area, Gross Residential[;]”
- d. That the “Pool Building Enclosure is separate from the principal Building, connected by a deck and patio which are excluded from the Floor Area definition[;]”
- e. That the “decks and patios are considered a Structure as the deck and patio are connected to the ground and impose an impervious material on the ground[;]” and
- f. That the prior Planning Commission minutes suggest an “intent of the Planning [C]ommission was to limit the construction on this site to the area constructed at the time of the Plat.”

19. Based on his foregoing observations, the Director concluded that, “a Pool Building at the referenced location is part of the Floor Area, Gross Residential and included in the plat limitation of Maximum House Size.” *See Director’s Determination*, attached as Exhibit E.

20. Contrary to the Director’s observation otherwise, the LMC defines “Maximum House Size” as “[a] measurement of Gross Floor Area.” *See LMC Section 15-15-1.168*.

21. “Floor Area,” and more specifically, “Floor Area, Gross Residential” is defined as follows:

The Area of **a Building**, including all enclosed Areas, Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. **Floor Area is measured from the finished surface of the interior of the exterior boundary walls.**

LMC Section 15-15-1.109(A), on file with the City (emphasis added).

22. In other words, under the LMC, the Floor Area, Gross Residential consists of a single “Building” and is measured by the interior boundary walls. *Id.*

23. The Planning Director’s conclusion that the proposed Accessory Building is “connected by a deck and patio to the house” is unfounded for several reasons, including but not limited to:

- a. Petitioner’s request for a ruling from the Planning Director only states “One solution to our dilemma would be to redesign the building as an Accessory Building. See *Request*, attached as Exhibit F. As no redesign was attached, the Planning Director’s conclusion is without factual basis in determining that it is connected.
- b. The Planning Director’s conclusion that an Accessory Building is part of the main building if it is connected by “a structure” is a unique stretch of interpretation/logic not supported by any provision in the Land Management Code. For instance, if a patio is a sufficient structure so would any other impervious structure such as a simple sidewalk. Moreover, how do you measure or define “connected”. If, for instance, the Accessory Building is one inch away from the patio, is it connected? Is one foot enough separation. If the redesign is one inch away from the patio, is it not “connected?” Again, there is no provision in the LMC which supports this conclusion.³
- c. The measurement (although not precise) shows that the beginning of the actual pool is about 75’-80’ from the house. Moreover, at present if built on the nearest edge of the

³ We have done a thorough search of case law decisions and we could not find any court decisions supporting the Planning Director’s conclusion. Indeed, his conclusion appears to be so out of the blue that we could find no case decisions addressing the issue at all.

pool, it's about 35' from the end of the patio. See *Photographs*, attached as Exhibits G through J.

24. LMC Section 15-1-18 permits a party to appeal any decision of either the Planning Director or Planning Staff.

25. Based on the foregoing, the Petitioner now appeals the Director's Determination and requests that the Planning Commission reviews the facts *de novo* and determine the correct of the Director's Determination in his interpretation and application of the land use ordinance as permitted under the LMC. See *LMC Section 15-1-18*, on file with the City.

26. Petitioner reserves the right to further supplement the record and their reasons and basis for the appeal as may be discovered hereafter.

STATEMENT OF REASONS FOR THE APPEAL

Standard of Review

Under Section 15-1-18 of the LMC, the Planning Commission acts in a quasi-judicial manner. The appellant or petitioner "shall review factual matters *de novo* and it shall determine the correctness of the decision of the land use authority in its interpretation and application of the land use ordinance." *LMC Section 15-1-18*, on file with the City.

I. THE PLANNING DIRECTOR ERRED IN HIS INTERPRETATION OF THE LMC.

The issue before the Planning Commission is whether the Planning Director erred in concluding that the Plat Note prohibits the construction of an Accessory Building on the Property. The Planning Director correctly concluded that the pool cover building is an Accessory Building. The Planning Director incorrectly concluded, however, that the square footage of an Accessory Building is considered part of the Maximum House Size or "Floor Area, Gross Residential" where the house and Accessory Building are purportedly connected by a patio and deck.

In particular, the Planning Director erroneously concluded that the pool cover building in this case should be considered part of the “Floor Area, Gross Residential” under the LMC. While the Planning Director correctly observed that the pool cover building is an Accessory Building that is “separate from the principal Building,” he erred by ultimately concluding that the construction of an Accessory Building would constitute an increase in Maximum House Size that is prohibited by the Plat Note.

A. The Plat Note Does Not Limit the Size of or Prohibit Construction of an Accessory Building.

The Plat Note only limits the “maximum house size” to 14,000 square feet. There is no prohibition in the Plat Note, or otherwise contained on the Plat, that prohibits the construction of an Accessory Building. Moreover, the LMC does not prohibit the construction of an Accessory Building on the Property. Indeed, as the Planning Director even concluded in his Director’s Determination, “[t]here is no restriction on the number of Accessory Buildings on a Lot.” *Director’s Determination*, attached as Exhibit E. Accordingly, the Planning Director erred when he determined that the Plat Note prohibited the construction of an Accessory Building.

B. The LMC Defines “Maximum House Size.”

Section 15-15-1.168 of the LMC defines “Maximum House Size” as:

A measurement of Gross Floor Area.

Thus, the Planning Director erroneously concluded that “[t]he LMC does not have a definition of maximum House Size...” *Director Determination*, attached as Exhibit E.

C. The Pool Cover Building proposed is an Accessory Building and Its Square Footage is Not Included in the Definition of Maximum House Size.

While the LMC does not define “Gross Floor Area,” it does define “Floor Area” including “Floor Area, Gross Residential.” *LMC Section 15-15-1.109*. “Floor Area, Gross Residential” is:

The Area of **a Building**, including all enclosed Areas, Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross

Residential Floor Area. Garages, up to maximum Area of 600 square feet, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. **Floor Area is measured from the finished surface of the interior of the exterior boundary walls.**

LMC Section 15-15-1.109 (emphasis added). Thus, “Floor Area, Gross Residential” only includes the area in a single building (i.e., “a Building”) that is measured from the “finished surface of the interior of the exterior boundary walls.” *LMC Section 15-15-1.109*.

Notably, the definition of “Floor Area, Gross Residential” does not include either an Accessory Building, or the surface area of the interior of an Accessory Building. Likewise, it does not include Buildings that are connected by decks, patios or any Structure.

Moreover, the definition of “Accessory Building” clearly identifies that it is “[a] building on the same Lot as the principal Building...that is clearly incidental to, and customarily found in connection with such principal Building, such as detached garages, barns, and other similar Structures...operated and maintained for the benefit of the principal Use; not a Dwelling Unit...” In other words, an Accessory Building, by definition, is distinct from the main Building or house, and a separate Building. Thus, the very definition of an Accessory Building identifies that it is separate. In contrast, the Planning Director’s conclusion suggests that the Gross Residential Floor Area may extend beyond the “finished surface of the interior of the exterior boundary walls.” This conclusion simply contradicts the plain definition of “Floor Area, Gross Residential” under the LMC.

The Planning Director also erroneously concluded that the Accessory Building (or pool cover building), while separate from the principal Building, is “connected by a deck and patio which are excluded from the Floor Area definition.” This conclusion is not only factually incorrect (as set forth more fully below), but is also an incorrect application of the LMC that erroneously determines that a deck or patio can connect multiple Buildings on a Lot for the purposes of determining the “Floor Area, Gross Residential” or House Size. This interpretation

clearly violates the plain definition of “Floor Area, Gross Residential” which limits the measurement to a single Building and to the area between the internal walls of that Building. There is no provision within the definition of “Floor Area, Gross Residential,” or the LMC in general, that includes Accessory Building or Buildings that are connected by a patio or deck. Consequently, the Planning Director erred in his unique application of the definition of “Floor Area, Gross Residential” and “Maximum House Size” and the Planning Commission should reverse and vacate his determination.⁴

D. The Planning Director’s Interpretation of the Planning Commission’s Intent Concerning the Plat Note is Irrelevant.

The Planning Director also incorrectly based his determination on what he interpreted was the “intent of the Planning Commission.” In particular, the Planning Director erred when he concluded, “[b]ased on the Planning Commission minutes, we find that the intent of the Planning commission was to limit the construction on this site to the area constructed at the time of the Plat.” *Director Determination*, attached as Exhibit E. Most importantly, the unstated “intent” of the Planning Commission is totally irrelevant. How is any owner of property to know what restrictions exist if he/she must first scour Planning Commission minutes to try to glean what their unwritten intent was? That can’t be the rule. Rather, the only relevant issue is whether that alleged intent is stated on the plat which was approved by ordinance, not by the Planning Commission, but by the City Council. No intent to exclude Accessory Buildings is expressed anywhere in the approving ordinance enacted in 1998.

Recapping, first, the “intention of the Planning Commission” is irrelevant as the plat notes reflect the final decisions of the City. *See generally, LMC 15-1-8*, on file with the City; *see*

⁴ It is further noted that the Planning Director’s conclusion that a deck or patio is considered a “Structure” does not alter the foregoing analysis and is irrelevant to the issue before the Planning Commission. Indeed, there is no provision in the LMC that a Structure that connects more than one Building results in expanded “Floor Area, Residential Gross” (i.e., that the Floor Area of both Buildings are considered part of the “Floor Area, Residential Gross”).

also Planning Commission Minutes dated November 18, 1998, attached as Exhibit E (memorializing the Planning Commissions' positive recommendation of the proposed plat amendment to amend the Hearthstone Subdivision to include Lots 11 and 12). Second, the Plat Note makes no reference to nor indicates that construction is limited to the site are "constructed at the time of the Plat." Indeed, the Plat Note only states, "...The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed." As a result, the Planning Director erred in his interpretation of the Plat Note as well as basing his decision on a purported intent gleaned from the Planning Commission Minutes in 1993. Accordingly, the Planning Commission should reverse and vacate the Planning Director's Determination.

II. THE DIRECTOR'S DETERMINATION ALSO RELIES UPON ERRONEOUS FACTS.

The Planning Director incorrectly concluded that a "deck and patio" connects the house to the proposed pool cover building. In August 2016, Petitioner requested only that the Planning Director determine whether a "redesign [of] the [pool cover] building as an Accessory Building" would be permitted. See *Request*, attached as Exhibit F. No redesign was attached to the request for decision. Accordingly, the Planning Director's conclusion is without factual basis that the house and pool cover building are connected.

In addition, the Planning Director's conclusion that an Accessory Building becomes part of the house if it is connected by "a structure" (i.e., a patio or deck) is a unique stretch and interpretation of the LMC. Indeed, under the logic applied by the Planning Director, if a patio constitutes a Structure that connects Buildings with combined "Floor Area, Gross Residential," similarly, a simple sidewalk could be considered a structure that connects Buildings. Is a sidewalk connecting a distant garage sufficient to include the garage as part of the main building? Moreover, under the Planning Director's determination, how do you measure or define "connected?" If, for instance, the Accessory

Building is one inch away from the patio, is it connected? If the redesign is one inch away from the patio, is it “connected” thereby creating an enlarged “Floor Area, Gross Residential?”

Although not before the Planning Director, the beginning of the actual constructed pool measures (although not precise) about 75'-80' from the house. Moreover, at present, if the pool cover building is constructed on the nearest edge of the pool, it is approximately 35 feet from the end of the patio. See *Photographs*, attached as Exhibits G through J.

In short, between 70 and 80 feet separate the edge of the pool and the house with partial hardscape, landscape, a hot tub and raw dirt, between the main building and the pool. Thus, the notion that the pool cover building and the house are in any way connected is without factual support. Accordingly, the Planning Commission should reverse and vacate the Planning Commission's decision.

III. STRICT CONSTRUCTION OF THE PLAT DOES NOT PROHIBIT ANY ACCESSORY BUILDING

On or about December 10, 1998, after a public hearing before the City Council, Park City Municipal Corporation passed Ordinance 98-48, approving the Amended Plat, and its notes, that amended the original Hearthstone Subdivision. See *First Amended Plat*, attached as Exhibit D. In general, an ordinance that restricts a property owner's common law right to an unrestricted use of land is strictly construed against prohibition of use of private property. See *Brown v. Sandy City Board of Adjustment*, 957 P.2d 207, 210-11 (Ut. Ct. App. 1998); *Patterson v. Utah County Bd of Adjustment*, 893 P.2d 602, 606 (Ut. Ct. App. 1995). As a result, when reviewing an ordinance a reviewing body first “looks to the plain language...to guide [its] interpretation.” *Brown*, 957 P.2d at 210-211. “Only if the ordinance is ambiguous need we look to legislative history to ascertain legislative intent.” *Id.* See also the recently decided case of *Colosimo v. Gateway Community Church*, 2016 UT App 195 (2016).

In this instance, the plat note concerning "house size" should be strictly construed. The plain language of the plat note only restricts the "house size." There is no restriction prohibiting the construction of an Accessory Building. Accordingly, the Planning Director's reliance on gleaned, but not stated prohibition of Accessory Buildings in Minutes from a Planning Commission Meeting held five years earlier (1993) is erroneous and his determination should be reversed and vacated.

CONCLUSION

Based on the foregoing, the Planning Commission should reverse and vacate the Planning Director's Determination that the Plat Note prohibits the construction of the Accessory Building (i.e., a pool cover building).

Respectfully submitted this 20th day of October, 2016.

TESCH LAW OFFICES, P.C.


Joseph E. Tesch
Stephanie K. Matsumura

EXHIBIT A

Commission did not feel the war had been lost and that open space was extremely important in and around Park City.

V. PUBLIC HEARING

1. Hearthstone Subdivision, Final Plat (Aerie Drive and Mellow Mountain Road) - Jack Johnson Co.

Planner Susan Lykes reviewed changes in the Staff's recommendations.

Condition 2 was changed to add:

The trails shall be at least two feet wide but no more than four feet.

Condition 3 was changed to read:

The maximum house size on Lot 11 was "as built."

Condition 4 was corrected to read:

The front setbacks for Lot 2 shall be 35 feet; . . .

The Staff recommended approval of the final plat with the changes to the conditions.

Chairman Bruce Erickson opened the public hearing.

There was no public input.

Chairman Bruce Erickson closed the public hearing.

2. Town Lift Phase I Condominium Plat (738 Main Street) - Marriott Ownership Resorts.

Planning Director Nora Seltenrich reported that the application was for a condominium plat for Building A2, consisting of 20 residential units with 8,000 square feet of commercial space currently under construction. The Staff recommended approval with two conditions of approval.

Chairman Bruce Erickson opened the public hearing.

There was no public input.

Chairman Bruce Erickson closed the public hearing.

decision and hoped that was reflected in the motion and comments to the City Council.

Commissioner Fred Jones was concerned that the process was not working. Where the process ended was with the City Council, and the Planning Commission had not done anything. He felt this circumvented the appropriate process because the decision would be made at the City Council level with input which the Planning Commission had not actually received. He was inclined to postpone the decision. Chairman Bruce Erickson stated that wood roof prohibitions, fire safe roofs, and wildland fires were not uncommon issues in other jurisdictions.

Commissioner Dean Berrett stated that he had heard opposing comments mostly phrased on the concept of "Big Brother." Means of communicating issues to the public could be improved, but it was not possible to drag people to Planning Commission meetings and force them to participate. He felt it was frustrating and disappointing, but did not necessitate postponing a decision. The item had been adequately noticed and the reasons for the prohibition were compelling enough that he would vote for the motion and encourage citizens to express further concerns to the City Council.

VOTE: The motion carried 4 to 2, with Commissioners Dean Berrett, Chris Erickson, Chuck Klingenstein, and Joe Tesch voting in favor of the motion and Commissioners Alison Child and Fred Jones voting against the motion.

IX. NEW BUSINESS

1. Hearthstone Subdivision - Final Plat (Aerie Drive and Mellow Mountain Road) - Jack Johnson Co.

The Staff recommended approval with changes in the conditions of approval as outlined in the public hearing.

Chairman Bruce Erickson clarified that the changes were:

Two-foot but not wider than four-foot paths.

Revision of the setback on Lot 2 to 35 feet.

The house restriction on the Korthoff house was "as built" at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.

Commissioner Joe Tesch stated that, because the Planning Commission had received instructions from the City Council that there was sufficient conflict of law with matters possibly raised in the bankruptcy court, he intended to vote for the project. He felt the project was as good as it could be within the parameters they had to work with.

MOTION: Commissioner Chuck Klingenstein moved to APPROVE the Hearthstone Subdivision as outlined in the report with the modifications to the staff recommendations. Commissioner Dean Berrett seconded the motion.

VOTE: The motion carried 5 to 1 with Commissioners Dean Berrett, Chris Erickson, Fred Jones, Chuck Klingenstein, and Joe Tesch voting in favor of the motion and Commissioner Alison Child voting against the motion.

Conditions of Approval

1. The portion of Mellow Mountain Road traversing this property shall be dedicated to and accepted by the City prior to plat recordation.
2. A six-foot easement for all trails crossing individual lots shall be reflected on the plat. Trails shall be constructed prior to September 22, 1994. The trails shall be at least two feet wide but no more than four feet wide.
3. Maximum house sizes shall be as follows:

3,500 square feet for Lots 4 and 5,
4,000 square feet for Lots 3 and 6,
5,000 square feet for Lots 1, 2, and 9,
6,000 square feet for Lots 7 and 12
6,500 square feet for Lots 8 and 10, and
Maximum house size on Lot 11 is "as built" at 14,100 square feet as measured by the Building Department.

A note shall be placed on the plat outlining the maximum square footage.

4. The front setbacks for Lot 2 shall be 35 feet; for Lot 4, 35 feet; and for Lot 6, 45 feet. A note shall be placed on the plat regarding these setbacks.
5. The developer shall be required to install two "stop ahead" signs placed on Aerie Drive 200 and 750 feet above the Aerie Drive/Deer Valley Drive intersection. The developer shall also install a streetlight at the same intersection.

6. The City Council shall accept dedication of the open space parcels prior to plat recordation.
7. A security shall be posted for all public improvements, including trails and the Aerie Drive improvements, prior to plat recordation.
2. Town Lift Phase I, Condominium Plat (738 Main Street) - Marriott Ownership Resorts

The Staff recommended approval with conditions as outlined in the Staff report.

MOTION: Commissioner Alison Child moved to APPROVE the final plat for Town Lift Phase I with conditions as outlined in the Staff report. Commissioner Dean Berrett seconded the motion.

VOTE: The motion passed unanimously.

Conditions of Approval

1. The City Attorney shall review and approve the Declaration and Covenants.
2. The City Engineer shall review and approve the plat.
3. Prospector Square, Final Plat to Rearrange Parking and 15 Building Parcels (State Hwy 248, Bonanza Drive and Prospector Avenue) - Jack Johnson Co.

The Staff recommended this item be continued at the applicant's request.

MOTION: Commissioner Alison Child moved to CONTINUE the decision regarding the Prospector Square Plat amendment. Commissioner Chuck Klingenstein seconded the motion.

Commissioner Dean Berrett declared he would be abstaining from discussion and voting on this matter due to a conflict of interest.

VOTE: The motion passed unanimously, with Commissioner Dean Berrett abstaining from the vote.

4. Snow Creek Commercial MPD (Northeast corner of Hwy 248 and 224)

Chairman Bruce Erickson stated that he would be abstaining from the discussion and vote on this matter and turned the meeting over to Vice-Chair Alison Child.

EXHIBIT B

EXHIBIT C

NOV 27 09 10L 0100 THE SECRETARIAL RECORD

Planning Commission Meeting
Minutes of November 18, 1993
Page 10

- ~~9. This approval shall expire one year from the date of City Council approval unless this plat amendment is recorded prior to that date.~~
- ~~10. All Standard Project Conditions shall apply (Please see Exhibit D - Standard Project Conditions).~~
5. 1376 Mellow Mountain Road, Hearthstone Subdivision - Plat Amendment

Due to a conflict of interest, Commissioner O'Hara abstained from discussing and voting on this matter.

Planner LoPiccolo reported that the applicants, Herb and Barbara Korthoff, are requesting that Lot 11 be subdivided into two lots. The proposed subdivision is located at 1376 Mellow Mountain Road and is adjacent to the Hearthstone Subdivision. He reviewed an exhibit to better explain where the parcel is located. He noted that in 1993 the Planning Commission denied a request by the Korthoffs for a small-scale MPD, which was appealed to the City Council, and the Council approved a 12-lot subdivision. Once the subdivision was approved, Mr. Korthoff withdrew the two lots, which were lots 11 and 12 of the approved Hearthstone 12-lot subdivision, due to a trail location and other issues surrounding the subdivision. Mr. Korthoff is appearing with the same request and now wants to be included in the Hearthstone subdivision. When this application was reviewed by the Planning Commission in October,

Planning Commission Meeting
Minutes of November 18, 1998
Page 11

trails were an issue for discussion. The applicant has agreed to the location of the trail, and an exhibit in the staff report shows the proposed trail location compared to the trail location originally requested by the Korthoffs. Planner LoPiccolo explained that the parcel is located in the Estate Zone, but it does not meet the three-acre minimum. In the original approval, the applicants dedicated Lots 3 and 4 to the City as open space. If that open space were dispersed among the 12 lots, it would meet the three-acre minimum. This subdivision will create a 1.5-acre lot. Mr. Korthoff contends that he dedicated 1.5 acres to the City with the Hearthstone MPD and wishes to use that acreage to meet the three-acre minimum or at least explain that the lack of three acres is due to the dedication. Planner LoPiccolo noted that including this property into the Hearthstone Subdivision would add only one house.

Commissioner Erickson asked if the trail location as shown is what the applicant proposes. Planner LoPiccolo replied that the trail shown on the exhibit is correct and has been agreed to by the applicant, the Staff, and the trails people.

Commissioner Erickson remarked that he noted the letter in the staff report from a resident at The Aerie with respect to the subdivision.

Chair Larson opened the public hearing.

Planning Commission Meeting
Minutes of November 18, 1998
Page 12

Bruce Manka, a resident in The Aerie subdivision, expressed concern about developers changing terms that were agreed to in the past. Mr. Manka wanted to see the three-acre minimum stand since this is Estate zoning. He noted that Mr. Korthoff made a decision to withdraw from Hearthstone because he did not want to live with the trail, but now he wants to change his mind and request a variance to the Estate Zone. Mr. Manka commented on the amount of development and density occurring and felt it would be nice if they could hold their ground at some point.

Kent Holland, representing Herb Korthoff, wished to make it clear that the 1.45 acres which was initially on the west side of Mellow Mountain Road was the property which made Lot 12 three acres to fit the Estate Zone requirement. Since the property was across the road, it was dedicated to the City. The problem which resulted at that time was that the bicycle path was within three feet of the back of the houses. This became a problem in building his house and caused Mr. Korthoff to withdraw from the original subdivision. Mr. Holland did not feel that the applicant was asking for a variance to build on a small piece of property because the property originally consisted of three acres. He did not believe the Planning Commission would be setting a precedent in granting this request for one single lot.

Chair Larson closed the public hearing.

Planning Commission Meeting
Minutes of November 18, 1998
Page 13

Commissioner Zimney asked if the property would have been sufficient for the Estate Zone if Mr. Korthoff had not dedicated 1.5 acres to the City. Planner LoPiccolo replied that Hearthstone Subdivision is in the Estate Zone, and the 1.5 acres plus the acreage in the current application would have comprised three acres which is sufficient to meet the Estate Zone requirement. This situation is different because Mellow Mountain Road runs through the property, and Mr. Korthoff's dedication was used for open space.

Commissioner Hays asked if Hearthstone would meet the open space requirement without the 1.5 acres. Planner LoPiccolo replied that it would because it goes back to the original MPD. Assistant City Attorney Mark Harrington explained that the City originally took the position that even though the acreage may have been sufficient without the dedication, the Hearthstone plat could not be recorded without the dedication of that open space because it was part of the original MPD approval. This is important to Mr. Korthoff because he did not dedicate it; the bankruptcy trustee did. The property was in holding at the time, and Mr. Korthoff objected to the dedication because he wanted to retain it for a future subdivision.

MOTION: Commissioner Hier moved to forward a POSITIVE recommendation for the proposed plat amendment application to amend the Hearthstone Subdivision based on the findings of fact,

NOT BY OR FOR THE
THE SECRETARY OF THE
Planning Commission Meeting
Minutes of November 18, 1998
Page 14

conclusions of law, and conditions of approval outlined in the staff report. Commissioner Zimney seconded the motion.

VOTE: The motion passed by a vote of 3 to 2, with Commissioners Larson, Zimney, and Hier voting in favor of the motion and Commissioners Erickson and Hays voting against the motion. Commissioner O'Hara abstained from the vote.

Findings of Fact - 1376 Mellow Mountain Road

1. The property is zoned Estate and was approved for two lots in the Hearthstone MPD on June 17, 1993.
2. The proposed plat amendment will amend the Hearthstone Subdivision to include lots 11 and 12 as originally approved.
3. Proposed Lot 11 has an existing house built on it.
4. The applicant agrees to grant the City an easement for the trail as outlined in Exhibit A.
5. The applicant contributed in excess of six acres to the original MPD.

Conclusions of Law - 1376 Mellow Mountain Road

1. There is good cause for the amendment.

NOT BY OR FOR THE CITY OF PARK CITY
THE SECRETARY OF THE PLANNING COMMISSION
NOT BY OR FOR THE CITY OF PARK CITY
11-19

Planning Commission Meeting
Minutes of November 18, 1998
Page 15

2. Neither the public nor any person will be materially injured by the proposed amendment.
3. The proposal is consistent with Park City LMC Chapter 15 and the MPD approved June 17, 1993.

Conditions of Approval - 1376 Mellow Mountain Road

1. The trail easement as shown on Exhibit A shall be dedicated to the City on the plat. The easement shall be six feet wide.
2. All conditions of approval of the MPD approved June 17, 1993, still apply.
3. The City Engineer and City Attorney's review and approval of the plat for compliance with State Law and these conditions of approval is a condition precedent to plat recordation.
4. This approval shall expire one year from the date of City Council approval unless the plat has been recorded with Summit County.
5. All Standard Project Conditions shall apply.
6. The maximum house size for Lot 12 is 6,000 square feet. The maximum house size for Lot 11 is "as built" at 14,000 square

Planning Commission Meeting
Minutes of November 18, 1998
Page 16

feet (no additions resulting in additional square footage allowed). These restrictions shall be noted on the plat.

7. A 10-foot, non-exclusive snow storage and utility easement shall be dedicated on the plat to the City along Mellow Mountain Road.
8. The applicant shall quit claim to the City in a form approved by the City Attorney all interest in the open space parcel dedicated to the City as part of the original Hearthstone Subdivision.

The Park City Planning Commission Meeting adjourned at 7:25 p.m.

Approved by Planning Commission _____

EXHIBIT D

FIRST AMENDMENT TO HEARTHSTONE SUBDIVISION

LOCATED IN SECTIONS 15 & 10, TOWNSHIP 2 SOUTH,
RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

SURVEYORS CERTIFICATE

I, DENNIS L. BAILEY, DECLARE I AM A REGISTERED LAND SURVEYOR AS
PRESCRIBED BY UTAH STATE LAW AND THAT I HOLD LICENSE # 175754. I
FURTHER SAY THAT A LAND SURVEY WAS MADE OF THE PROPERTY DESCRIBED
BELOW, AND THE FINDINGS OF THAT SURVEY ARE AS FOLLOWS:

DATE 27, 1999



LEGAL DESCRIPTION

BEGINNING AT A POINT 609.12 FEET SOUTH AND 216.59 FEET EAST FROM THE
NORTHWEST CORNER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 4 EAST,
S&L; LAKE BASE AND MERIDIAN; THENCE N00°00'00"W, 515.24 FEET; THENCE
S20°00'46"E, 515.24 FEET; THENCE N20°00'46"W, 243.04 FEET; CENTRAL ANGLE =
47°36'46" RADIUS 301.05 FEET; THENCE 219.91 FEET ALONG THE ARC OF A
CURVE TO THE LEFT (TAN. BRG. = N27°30'00"E, CHORD BRG. = N15°30'00"E,
216.31 FEET, CENTRAL ANGLE = 24°00', RADIUS = 525.00 FEET); THENCE
N03°30'00"E, 131.67 FEET; THENCE 5.71 FEET ALONG THE ARC OF A CURVE TO
THE LEFT (TAN. BRG. = N03°30'00"E, CHORD BRG. = N02°43'54"E, 5.71 FEET,
CENTRAL ANGLE = 1°31'16", RADIUS = 215.00 FEET); THENCE N02°30'31"W,
245.41 FEET; THENCE S12°36'38"E, 698.02 FEET; THENCE S19°30'00"E, 428.49
FEET; THENCE S82°29'31"W, 142.12 FEET TO THE POINT OF BEGINNING
CONTAINING 4.724 ACRES.

PUBLIC TRAIL EASEMENT

CONTAINED WITHIN THE FOLLOWING DESCRIBED 100 FT. PROPERTY CORRIDOR
WHICH IS LOCATED IN LOT 112 OF THE HEARTHSTONE SUBDIVISION WILL BE
A DEDICATED 8 FT. PUBLIC TRAIL EASEMENT.

OWNER'S DEDICATION & CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS THAT HERBERT W. KORTHOFF AND BARBARA
L. KORTHOFF, THE OWNERS OF THE HEREIN DESCRIBED TRACT OF LAND TO BE KNOWN
HEREIN AFTER AS "THE LOT 12 PUBLIC TRAIL" AND 8 FT. EASEMENT DESCRIBED AS
FOLLOWS: BEGINNING AT THE NORTH WESTERLY LINE OF LOT 12 AND RUNNING
THENCE S 20°00'46"E 460 FEET; THENCE MEANDERING NORTH EASTERLY 220 FEET;
THENCE N19°30'00"W 428.49 FEET; THENCE N12°36'38"E 48.40 FEET; THENCE
DEPARTING LOT 12 IN A NEW DIRECTION HAVING CAUSED THIS PLAT
AMENDMENT TO BE MADE, DOES HEREBY CONSENT TO THIS EASTERLY DIRECTION
HAVING CAUSED THIS PLAT AMENDMENT TO BE MADE DOES HEREBY CONSENT TO THIS
RECORD OF SURVEY MAP IN THE COUNTY RECORDER OF SUMMIT COUNTY, UTAH IN
ACCORDANCE WITH UTAH LAW.

FURTHER, HERBERT W. KORTHOFF AND BARBARA L. KORTHOFF, AS THE
BENEFICIARIES OF THE STIPULATION FOR DISMISSAL IN THE CASE OF KORTHOFF V.
PARK CITY MUNICIPAL CORPORATION ET AL, CIVIL NO. 92-93 CV-2924, HEREBY
CONSENT TO THE RECORDED OF THAT TRACT OF LAND CONVEYED TO THE
KORTHOFFS BY SAID REFERRED TO AS "TRACT OF LAND" IS DEFINED AS THE 1.45
ACRES OF THE ELWOOD AND LYNN NIELSEN ESTATE PARCEL CONVEYED BY SAID
STIPULATION TO THE KORTHOFFS RUNNING PARALLEL TO, AND DIRECTLY WEST OF
MELLOW MOUNTAIN ROAD.

ALSO, THE OWNERS HEREBY IRREVOCABLY OFFERS FOR DEDICATION TO THE CITY OF
PARK CITY, THE LOT 12 PUBLIC TRAIL, THE SNOW STORAGE EASEMENT SHOWN ON
THE PLAT AND THE TRACT OF LAND FOR ANY AND ALL GOVERNMENT USES OR
EASEMENTS PERTAINING TO A PUBLIC TRAIL AND AN OPEN SPACE AS SHOWN ON
THE PLAT IN ACCORDANCE WITH SAID IRREVOCABLE DEDICATION.
CONTAINED WITHIN THE FOLLOWING DESCRIBED 100 FT. PROPERTY CORRIDOR
WHICH IS LOCATED IN LOT 112 OF THE HEARTHSTONE SUBDIVISION WILL BE
A DEDICATED 8 FT. DIRT PATH EASEMENT.

IN WITNESS WHEREOF, THE UNDERSIGNED SET HIS HAND THIS 27th DAY OF
JULY, 1999.

J. KENT HOLLAND, THE ATTORNEY IN FACT FOR
HERBERT W. AND BARBARA L. KORTHOFF

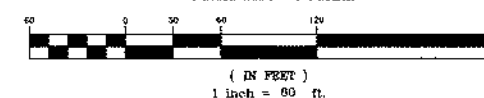
ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF SALT LAKE

ON THE 27th DAY OF July, A.D. 1999, PERSONALLY APPEARED
BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, AND FOR SAID STATE AND COUNTY
J. KENT HOLLAND, BEING DULY SWORN, ACKNOWLEDGED TO ME THAT
ABOVE OWNERS DEDICATION, IN NUMBER WHO DULY ACKNOWLEDGED TO ME THAT
HE IS THE ATTORNEY IN FACT FOR HERBERT W. KORTHOFF AND
THAT HE SIGNED THE ABOVE OWNERS DEDICATION AND CONSENT TO RECORD, FREELY
AND VOLUNTARILY FOR THE USE AND PURPOSES STATED THEREIN.

MY COMMISSION EXPIRES May 11, 2001
NOTARY PUBLIC John B. Anderson
RESIDING IN Salt Lake County

GRAPHIC SCALE



ADDRESSES:

#1358 MELLOW MOUNTAIN ROAD

FIRST AMENDMENT TO HEARTHSTONE SUBDIVISION

LOCATED IN SECTION 15 & 10
T. 2 S., R. 4 E., S.L.B. & M.
PARK CITY, SUMMIT COUNTY, UTAH

CITY PLANNING COMMISSION

APPROVED AS TO FORM THIS 2nd
DAY OF July, 1999 A.D.

BY Milda Cogan
PARK CITY PLANNING COMM.

SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT

REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN
SEWER IMPROVEMENT DISTRICT STANDARDS ON
THIS 24th DAY OF June, 1999 A.D.

BY Joe W. Baker
S.B.S.B.

ENGINEERS CERTIFICATE

I FIND THIS PLAT TO BE IN
ACCORDANCE WITH INFORMATION ON
FILE IN MY OFFICE THIS 2nd
DAY OF July, 1999 A.D.
BY John B. Anderson
PARK CITY ENGINEER

APPROVAL AS TO FORM

APPROVED AS TO FORM THIS 26th
DAY OF July, 1999 A.D.

BY Mark H. Hargis
PARK CITY ATTORNEY

CERTIFICATE OF ATTEST

I CERTIFY THIS RECORD OF SURVEY
MAP WAS APPROVED BY PARK CITY
COUNCIL THIS 10th DAY
OF December, 1998 A.D.
BY Janet M. Smith
PARK CITY RECORDER

PARK CITY COUNCIL

APPROVAL AND ACCEPTANCE BY THE PARK CITY
COUNCIL THIS 10th DAY OF December, 1998 A.D.

BY [Signature]
MAYOR

RECORDED # 543829

STATE OF UTAH, COUNTY OF SUMMIT, RECORDED AND FILED
AT THE REQUEST OF COAGILIAN TITLE

DATE 7-13-99 TIME 11:20 AM BOOK 32 PAGE 32
FEE 32
SUMMIT COUNTY RECORDER

EXHIBIT E



September 30, 2016

1376 Mellow Mountain Road
Park City, UT 84060

NOTICE OF PLANNING DIRECTOR DETERMINATION:

Project Address:	1376 Mellow Mountain Road
Zoning:	Estate (E) zone
Project Description:	Planning Director Determination of plat note regarding house size for Lot 11 of the First Amendment to Hearthstone Subdivision
Project Number(s):	BD-16-22329
Date of Action:	September 30, 2016

ACTION TAKEN BY PLANNING DIRECTOR:

Regarding the request to consider the proposed pool house as an Accessory Building under the Land Management Code (Main level 6,693 square feet, plus Upper level 1,933 square feet, plus the Lower level above Final grade 3,266 square feet- total square footage equals 11,892 square feet as noted on the referenced survey). The proposed 4,617 square foot pool house would effectively put Lot 11 over the 14,000 square feet allowable by the plat, therefore may not be approved by the Planning Department. This determination is based on the following:

1) Is a "Pool Cover building" considered as an Accessory Building under LMC?

Accessory Buildings and uses are an Allowed use in the Estate (E) zone¹. Accessory buildings are defined² as: a Building, on the same lot as the principal building and that is clearly incidental to and customarily found in connection with principal building such as detached garages, barns and other similar Structures that require a Building Permit. It must be operated for the benefit of the principal Use and not a Dwelling Unit.

If the Accessory Building is outside of the Setback areas, height is the same as the principal building. There is no restriction on the number of Accessory Buildings on a Lot.

The Planning Director determines that a Pool Building at the referenced location meets the criteria for an Accessory Building.

2) Are Accessory Buildings controlled by a plat note when no other limitations are present (i.e. setbacks, Limits of Disturbance, etc.)?

The recorded Plat for this lot contains a note regarding Maximum House Size (14,000 Square feet, with no additions). Refer to the appeal report for Planning Commission commentary on this. The LMC does not have a

¹ LMC section 15-2.10-2(11)

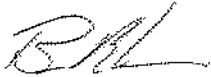
² LMC section 15-15-1.3

definition of maximum House Size, nor does the specific approval of this subdivision. The Planning Department uses the LMC definition of Floor Area, gross residential³. This definition includes all areas of the Building including all enclosed Areas and excludes decks, patios, and Balconies. It could be argued that the Pool Building Enclosure is an enclosed Area and therefore subject to the Floor Area, Gross Residential. The Pool Building Enclosure is separate from the principal Building, connected by a deck and patio which are excluded from the Floor Area definition. However, the decks and patios are considered a Structure⁴ as the deck and patio are connected to the ground and impose an impervious material on the ground. Based on the Planning Commission minutes, we find that the intent of the Planning commission was to limit the construction on this site to the area constructed at the time of the Plat.

The Planning Director determines that a Pool Building at the referenced location is part of the Floor Area, Gross Residential and included in the plat limitation of Maximum House Size.

If you have any questions regarding this determination, please don't hesitate to contact the Planning Department at 435-615-5060.

Sincerely,

A handwritten signature in black ink, appearing to read "BE", with a stylized flourish at the end.

Bruce Erickson, AICP
Planning Director

CC: Makena Hawley, Planner

³ LMC section 15-15-1.105

⁴ LMC section 15-15-1.257

EXHIBIT F

From: Joe Tesch
Sent: Monday, August 15, 2016 1:56 PM
To: Bruce Erickson
Cc: Polly Samuels McLean; David Camarata; Makena Hawley; Lisa Loomis; Stephanie Matsumura
Subject: Camarata House

Bruce,

One solution to our dilemma would be to redesign the pool building as an Accessory Building meeting all of the requirements of such a building in the Estate Zone.

Since an Accessory Building is not part of the house, it does not implicate the plat note which states that "The maximum house size... for Lot 11 is 14,000 square feet with no additions resulting in additional square footage over 14,000 square feet allowed."

An Accessory Building seems to be outside of the plain reading of that note. If you propose a construction of that sentence which leads to a different result, please let me know.

Joe

TESCH LAW OFFICES, P.C.

314 Main Street, Suite 200
PO Box 3390
Park City, Utah 84060
Telephone: (435) 649-0077
Facsimile: (435) 649-2561

"Straight Talk. Sound Advice. Proven Results."

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A portion of our practice involves the collection of debt and any information you provide will be used for that purpose if we are attempting to collect a debt from you.

EXHIBIT G

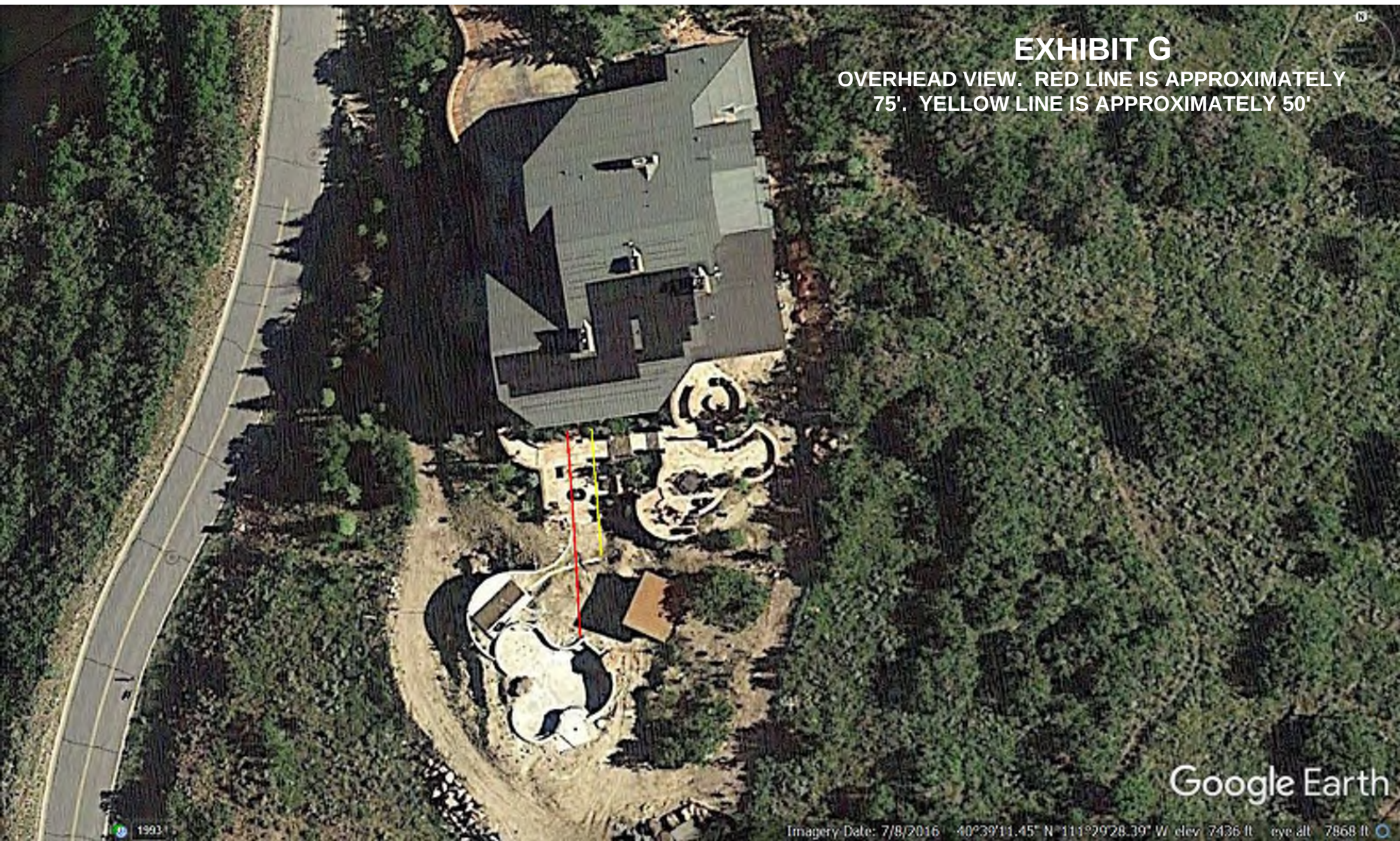


EXHIBIT G

OVERHEAD VIEW. RED LINE IS APPROXIMATELY
75'. YELLOW LINE IS APPROXIMATELY 50'

Google Earth

Imagery Date: 7/8/2016 40°39'11.45" N 111°29'28.39" W elev 7436 ft eye alt 7868 ft

EXHIBIT H

EXHIBIT H
PHOTO FROM END OF PATIO TO POOL



EXHIBIT I

EXHIBIT I

PHOTO SHOWING LANDSCAPE BETWEEN PATIO AND POOL



EXHIBIT J

EXHIBIT J

VIEW FROM POOL TO HOUSE





September 30, 2016

1376 Mellow Mountain Road
Park City, UT 84060

NOTICE OF PLANNING DIRECTOR DETERMINATION:

Project Address: 1376 Mellow Mountain Road
Zoning: Estate (E) zone
Project Description: Planning Director Determination of plat note regarding house size for Lot 11 of the First Amendment to Hearthstone Subdivision
Project Number(s): BD-16-22329
Date of Action: September 30, 2016

ACTION TAKEN BY PLANNING DIRECTOR:

Regarding the request to consider the proposed pool house as an Accessory Building under the Land Management Code (Main level 6,693 square feet, plus Upper level 1,933 square feet, plus the Lower level above Final grade 3,266 square feet- total square footage equals 11,892 square feet as noted on the referenced survey). The proposed 4,617 square foot pool house would effectively put Lot 11 over the 14,000 square feet allowable by the plat, therefore may not be approved by the Planning Department. This determination is based on the following:

1) Is a "Pool Cover building" considered as an Accessory Building under LMC?

Accessory Buildings and uses are an Allowed use in the Estate (E) zone¹. Accessory buildings are defined² as: a Building, on the same lot as the principal building and that is clearly incidental to and customarily found in connection with principal building such as detached garages, barns and other similar Structures that require a Building Permit. It must be operated for the benefit of the principal Use and not a Dwelling Unit.

If the Accessory Building is outside of the Setback areas, height is the same as the principal building. There is no restriction on the number of Accessory Buildings on a Lot.

The Planning Director determines that a Pool Building at the referenced location meets the criteria for an Accessory Building.

2) Are Accessory Buildings controlled by a plat note when no other limitations are present (i.e. setbacks, Limits of Disturbance, etc.)?

The recorded Plat for this lot contains a note regarding Maximum House Size (14,000 Square feet, with no additions). Refer to the appeal report for Planning Commission commentary on this. The LMC does not have a

¹ LMC section 15-2.10-2(11)

² LMC section 15-15-1.3

definition of maximum House Size, nor does the specific approval of this subdivision. The Planning Department uses the LMC definition of Floor Area, gross residential³. This definition includes all areas of the Building including all enclosed Areas and excludes decks, patios, and Balconies. It could be argued that the Pool Building Enclosure is an enclosed Area and therefore subject to the Floor Area, Gross Residential. The Pool Building Enclosure is separate from the principal Building, connected by a deck and patio which are excluded from the Floor Area definition. However, the decks and patios are considered a Structure⁴ as the deck and patio are connected to the ground and impose an impervious material on the ground. Based on the Planning Commission minutes, we find that the intent of the Planning commission was to limit the construction on this site to the area constructed at the time of the Plat.

The Planning Director determines that a Pool Building at the referenced location is part of the Floor Area, Gross Residential and included in the plat limitation of Maximum House Size.

If you have any questions regarding this determination, please don't hesitate to contact the Planning Department at 435-615-5060.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Erickson", with a stylized flourish at the end.

Bruce Erickson, AICP
Planning Director

CC: Makena Hawley, Planner

³ LMC section 15-15-1.105

⁴ LMC section 15-15-1.257

HEARTHSTONE SUBDIVISION
LOCATED WITHIN SECTIONS 10, 16 & 15, TOWNSHIP 2 SOUTH,
RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN



- DESCRIPTION OF SUBJECT -

contributed to the development of the field. The *Journal of Human Development and Disability* is a peer-reviewed journal that publishes research, theory, and practice in the field of human development and disability. The journal is published by Sage Publications, a leading publisher of academic journals. The journal is a key source of information for researchers, practitioners, and students in the field of human development and disability. The journal is a key source of information for researchers, practitioners, and students in the field of human development and disability.

REVISIONS OF BOOK 1

[illegible]

MATERIALS (10/24/1975)		TESTING (10/24/1975)	
TIME	WATER	TIME	WATER
10:00	100	10:00	100
10:15	100	10:15	100
10:30	100	10:30	100
10:45	100	10:45	100
11:00	100	11:00	100
11:15	100	11:15	100
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23:30	100	23:30	100
23:45	100	23:45	100
24:00	100	24:00	100

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099																																																																																																																																																																																																																																						
1990	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099
1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	

1. A non-reducing, 6-fold symmetric, cyclic, and fibrous polymer is known as **cellulose**. It is a polysaccharide made up of glucose units linked by β -1,4 glycosidic bonds.
2. A natural 1,4- β -D-glucopyranoside polymer is known as **cellulose**. It is a polysaccharide made up of glucose units linked by β -1,4 glycosidic bonds.
3. A natural 1,4- β -D-glucopyranoside polymer is known as **cellulose**. It is a polysaccharide made up of glucose units linked by β -1,4 glycosidic bonds.
4. A non-reducing, 6-fold symmetric, cyclic, and fibrous polymer is known as **cellulose**. It is a polysaccharide made up of glucose units linked by β -1,4 glycosidic bonds.

Landscape

PROPERTY ADDRESS	100
PROPERTY LOCATION	100
SETBACK & ZON	100
EXISTING ROOMS	100
FINISH OFF STANDARD	100

www.elsevier.com/locate/jmb

[illegible]

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more common in these provinces. From the underground are the remains of the famous subterranean forest of 1000, and finally reaches the water to be studied into only 8 points together with atmospheric gas and 50% in the dissolved part, however, it is known as hydrogen sulfide.

Key: the service (sinks) belongs to Park City, Boulder Valley Water Improvement District, Sun City, Vail Mountain District, and Vail City. Manager comments: the public artists show in the park and a two-dimensional sculpture near the trails and rocky outcrops. Works on this site for the purpose of providing water for city residents, including the use of natural replacement, and for the use of water for public use. The public art show shows the water and the water.

[illegible]

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From our data we have proposed that the *Pharynx* subcategory may also include activity in a posterior (or lateral) modified *Post. (lateral)* and *Posterior* node. The reason for this modification and name change is discussed in more detail in the discussion section, but is based on the finding that *Posterior* and *Post. (lateral)* are not significantly different from each other.

University of California, Berkeley, CA 94720-1987
 E-mail: David.L.Hall@berkeley.edu
 Phone: (415) 495-1500
 Fax: (415) 495-1500
 Web: <http://www.berkeley.edu/~david.hall>
 Research interests: macroeconomics, econometrics, and financial econometrics, and the application of econometric methods to policy analysis.
 Current projects: the impact of monetary policy on the real economy, the impact of fiscal policy on the real economy, the impact of monetary policy on the real economy, and the impact of fiscal policy on the real economy.

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[illegible]

Small circular logo with a stylized 'S' and 'M' inside.

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from almost by force of nature. That the outgrouped authors preferred formal to personal forms of distribution is, I feel, not surprising, for even in the United States the academic agency with momentum for both on the printed job, as well as in the future of educational institutions.

(Signature)

[illegible][illegible]

Original Filed for record on 11/25/2005

CITY COUNCIL APPROVAL:

PRESENTED TO THE BOARD OF 1-24-81
CITY COUNCIL THIS 23 DAY OF
APRIL A.D. 1981 AT WHICH TIME WAS
BECOME DE SLAVEY WAS APPROVED
Carly L. White
MAYOR
JAY C. GORDON

CITY ENGINEER

APPROVED AND ACCEPTED BY THE
CITY ENGINEERING DEPARTMENT
ON THIS 12TH DAY OF MAY
A.D. 1977

Eric W. O'Neil
CITY ENGINEER

CITY PLANNING COMMISSION

APPROVED AND ACCEPTED BY THE
CITY PLANNING COMMISSION ON THIS
DAY OF June, A.D. 1978
Urban Child
CHAIRMAN

APPROVAL AS TO FORM

APPROVED AS TO FORM ON THE 23rd
DAY OF May A.D. 1971
[Signature]
DEPT. ATTORNEY

RECORDED

N. Young
State of Utah
County of Summit
Recorded and Filed at the Registry of
High Country Title
Deed 5-19-99
Book 12184 P. 1
Per: Alan Briggs
County Recorder



THE JACK
JOHNSON
COMPANY

1995 *Dispersal Journal* 4: 176-179. (This issue
has a 50% discount on the cover price.)

Exhibit E- Amendment to Hearthstone Subdivision name - The Overlook
at Old Town

NOTE:

*HEARTHSTONE SUBDIVISION # 406518 NAME WAS CHANGED BY
AMENDMENT OF DECLARATION # 454355 BOOK 964 PAGE 703-707
HEARTHSTONE SUBDIVISION # 406518*

IS NOW KNOWN AS

THE OVERLOOK AT OLD TOWN

SEE HEARTHSTONE SUBDIVISION FOR OWNERSHIP

HEARTHSTONE

1/92

PLAN CHECK AND CORRECTION SHEET

NOTE: This check list is compiled for plan checking purposes for use by the Division of Building Inspection. The information contained herein will also provide condensed construction information for design and job use. This check list is not intended to indicate any change in any building code or ordinance by inference or omission. A circle around a check list number indicates an incorrect detail, or insufficient information. Please make the corrections on the plan indicated by the number in the circle of the check list before the permit is issued. Any indicated correction not made or construction detail not shown will be assumed to be installed in accordance with the applicable codes. In the event you desire to use alternate materials or methods of construction after the permit is issued, please bring your copy of the approved plans to the Department of Building Inspection and have the changes made thereon together with the copy of plans on file with that department.

LOG NUMBER: 94

BUILDING ADDRESS: 1376 Mellon Mon Rd

OWNER'S NAME: KORTHOFF RESIDENCE

BUILDING FEE SCHEDULE

11832
Square Feet of Building 6487 Type of Building IN
Rough Basement _____ Occupancy Group RS
Finished Basement 3345 No. of Stories 3
Garage 2890 No. of Levels 3
Deck/balcony 1680 Other _____

Evaluation _____ Total Fees _____

Elevation _____ Ground Snow Load _____ Exposure Coefficient _____

Plan Check by J.H. 19 91 UNIFORM BUILDING CODE

1. Place correct construction street address, owner's name, designer's name and stamp or engineer's name and stamp on plans.

☒ Submit two complete sets of plans showing:

- | | |
|--------------------|---|
| A. Plot Plan | E. Specifications |
| B. Floor Plan | F. Construction Details |
| C. Foundation Plan | ☒ G. Heat Loss Calculations |
| D. Elevations | H. Structural Calculations |

3. Provide a grading plan showing the relative elevation of the foundation as it relates to the curb and gutter and

US 1500 PSF Soil
US 105 PSF snow

Commission did not feel the war had been lost and that open space was extremely important in and around Park City.

V. PUBLIC HEARING

1. Hearthstone Subdivision, Final Plat (Aerie Drive and Mellow Mountain Road) - Jack Johnson Co.

Planner Susan Lykes reviewed changes in the Staff's recommendations.

Condition 2 was changed to add:

The trails shall be at least two feet wide but no more than four feet.

Condition 3 was changed to read:

The maximum house size on Lot 11 was "as built."

Condition 4 was corrected to read:

The front setbacks for Lot 2 shall be 35 feet; . . .

The Staff recommended approval of the final plat with the changes to the conditions.

Chairman Bruce Erickson opened the public hearing.

There was no public input.

Chairman Bruce Erickson closed the public hearing.

2. Town Lift Phase I Condominium Plat (738 Main Street) - Marriott Ownership Resorts.

Planning Director Nora Seltenrich reported that the application was for a condominium plat for Building A2, consisting of 20 residential units with 8,000 square feet of commercial space currently under construction. The Staff recommended approval with two conditions of approval.

Chairman Bruce Erickson opened the public hearing.

There was no public input.

Chairman Bruce Erickson closed the public hearing.

decision and hoped that was reflected in the motion and comments to the City Council.

Commissioner Fred Jones was concerned that the process was not working. Where the process ended was with the City Council, and the Planning Commission had not done anything. He felt this circumvented the appropriate process because the decision would be made at the City Council level with input which the Planning Commission had not actually received. He was inclined to postpone the decision. Chairman Bruce Erickson stated that wood roof prohibitions, fire safe roofs, and wildland fires were not uncommon issues in other jurisdictions.

Commissioner Dean Berrett stated that he had heard opposing comments mostly phrased on the concept of "Big Brother." Means of communicating issues to the public could be improved, but it was not possible to drag people to Planning Commission meetings and force them to participate. He felt it was frustrating and disappointing, but did not necessitate postponing a decision. The item had been adequately noticed and the reasons for the prohibition were compelling enough that he would vote for the motion and encourage citizens to express further concerns to the City Council.

VOTE: The motion carried 4 to 2, with Commissioners Dean Berrett, Chris Erickson, Chuck Klingenstein, and Joe Tesch voting in favor of the motion and Commissioners Alison Child and Fred Jones voting against the motion.

IX. NEW BUSINESS

1. Hearthstone Subdivision - Final Plat (Aerie Drive and Mellow Mountain Road) - Jack Johnson Co.

The Staff recommended approval with changes in the conditions of approval as outlined in the public hearing.

Chairman Bruce Erickson clarified that the changes were:

Two-foot but not wider than four-foot paths.

Revision of the setback on Lot 2 to 35 feet.

The house restriction on the Korthoff house was "as built" at 14,100 square feet as measured by the Building Department, the intent of which was no further expansions of the house or the garage.

Commissioner Joe Tesch stated that, because the Planning Commission had received instructions from the City Council that there was sufficient conflict of law with matters possibly raised in the bankruptcy court, he intended to vote for the project. He felt the project was as good as it could be within the parameters they had to work with.

MOTION: Commissioner Chuck Klingenstein moved to APPROVE the Hearthstone Subdivision as outlined in the report with the modifications to the staff recommendations. Commissioner Dean Berrett seconded the motion.

VOTE: The motion carried 5 to 1 with Commissioners Dean Berrett, Chris Erickson, Fred Jones, Chuck Klingenstein, and Joe Tesch voting in favor of the motion and Commissioner Alison Child voting against the motion.

Conditions of Approval

1. The portion of Mellow Mountain Road traversing this property shall be dedicated to and accepted by the City prior to plat recordation.
2. A six-foot easement for all trails crossing individual lots shall be reflected on the plat. Trails shall be constructed prior to September 22, 1994. The trails shall be at least two feet wide but no more than four feet wide.
3. Maximum house sizes shall be as follows:

3,500 square feet for Lots 4 and 5,
4,000 square feet for Lots 3 and 6,
5,000 square feet for Lots 1, 2, and 9,
6,000 square feet for Lots 7 and 12
6,500 square feet for Lots 8 and 10, and
Maximum house size on Lot 11 is "as built" at 14,100 square feet as measured by the Building Department.

A note shall be placed on the plat outlining the maximum square footage.

4. The front setbacks for Lot 2 shall be 35 feet; for Lot 4, 35 feet; and for Lot 6, 45 feet. A note shall be placed on the plat regarding these setbacks.
5. The developer shall be required to install two "stop ahead" signs placed on Aerie Drive 200 and 750 feet above the Aerie Drive/Deer Valley Drive intersection. The developer shall also install a streetlight at the same intersection.

6. The City Council shall accept dedication of the open space parcels prior to plat recordation.
7. A security shall be posted for all public improvements, including trails and the Aerie Drive improvements, prior to plat recordation.
2. Town Lift Phase I, Condominium Plat (738 Main Street) - Marriott Ownership Resorts

The Staff recommended approval with conditions as outlined in the Staff report.

MOTION: Commissioner Alison Child moved to APPROVE the final plat for Town Lift Phase I with conditions as outlined in the Staff report. Commissioner Dean Berrett seconded the motion.

VOTE: The motion passed unanimously.

Conditions of Approval

1. The City Attorney shall review and approve the Declaration and Covenants.
2. The City Engineer shall review and approve the plat.
3. Prospector Square, Final Plat to Rearrange Parking and 15 Building Parcels (State Hwy 248, Bonanza Drive and Prospector Avenue) - Jack Johnson Co.

The Staff recommended this item be continued at the applicant's request.

MOTION: Commissioner Alison Child moved to CONTINUE the decision regarding the Prospector Square Plat amendment. Commissioner Chuck Klingenstein seconded the motion.

Commissioner Dean Berrett declared he would be abstaining from discussion and voting on this matter due to a conflict of interest.

VOTE: The motion passed unanimously, with Commissioner Dean Berrett abstaining from the vote.

4. Snow Creek Commercial MPD (Northeast corner of Hwy 248 and 224)

Chairman Bruce Erickson stated that he would be abstaining from the discussion and vote on this matter and turned the meeting over to Vice-Chair Alison Child.

NOV 27 00 10L 0100 THE SECRETARIAL RECORD

Planning Commission Meeting
Minutes of November 18, 1993
Page 10

9. This approval shall expire one year from the date of City Council approval unless this plat amendment is recorded prior to that date.
10. All Standard Project Conditions shall apply (Please see Exhibit D - Standard Project Conditions).

5. 1376 Mellow Mountain Road, Hearthstone Subdivision - Plat Amendment

Due to a conflict of interest, Commissioner O'Hara abstained from discussing and voting on this matter.

Planner LoPiccolo reported that the applicants, Herb and Barbara Korthoff, are requesting that Lot 11 be subdivided into two lots. The proposed subdivision is located at 1376 Mellow Mountain Road and is adjacent to the Hearthstone Subdivision. He reviewed an exhibit to better explain where the parcel is located. He noted that in 1993 the Planning Commission denied a request by the Korthoffs for a small-scale MPD, which was appealed to the City Council, and the Council approved a 12-lot subdivision. Once the subdivision was approved, Mr. Korthoff withdrew the two lots, which were lots 11 and 12 of the approved Hearthstone 12-lot subdivision, due to a trail location and other issues surrounding the subdivision. Mr. Korthoff is appearing with the same request and now wants to be included in the Hearthstone subdivision. When this application was reviewed by the Planning Commission in October,

NOV 24 00 10L 0700 THE SECRETARY'S OFFICE
Planning Commission Meeting
Minutes of November 18, 1998
Page 11

trails were an issue for discussion. The applicant has agreed to the location of the trail, and an exhibit in the staff report shows the proposed trail location compared to the trail location originally requested by the Korthoffs. Planner LoPiccolo explained that the parcel is located in the Estate Zone, but it does not meet the three-acre minimum. In the original approval, the applicants dedicated Lots 3 and 4 to the City as open space. If that open space were dispersed among the 12 lots, it would meet the three-acre minimum. This subdivision will create a 1.5-acre lot. Mr. Korthoff contends that he dedicated 1.5 acres to the City with the Hearthstone MPD and wishes to use that acreage to meet the three-acre minimum or at least explain that the lack of three acres is due to the dedication. Planner LoPiccolo noted that including this property into the Hearthstone Subdivision would add only one house.

Commissioner Erickson asked if the trail location as shown is what the applicant proposes. Planner LoPiccolo replied that the trail shown on the exhibit is correct and has been agreed to by the applicant, the Staff, and the trails people.

Commissioner Erickson remarked that he noted the letter in the staff report from a resident at The Aerie with respect to the subdivision.

Chair Larson opened the public hearing.

Planning Commission Meeting
Minutes of November 18, 1998
Page 12

Bruce Manka, a resident in The Aerie subdivision, expressed concern about developers changing terms that were agreed to in the past. Mr. Manka wanted to see the three-acre minimum stand since this is Estate zoning. He noted that Mr. Korthoff made a decision to withdraw from Hearthstone because he did not want to live with the trail, but now he wants to change his mind and request a variance to the Estate Zone. Mr. Manka commented on the amount of development and density occurring and felt it would be nice if they could hold their ground at some point.

Kent Holland, representing Herb Korthoff, wished to make it clear that the 1.45 acres which was initially on the west side of Mellow Mountain Road was the property which made Lot 12 three acres to fit the Estate Zone requirement. Since the property was across the road, it was dedicated to the City. The problem which resulted at that time was that the bicycle path was within three feet of the back of the houses. This became a problem in building his house and caused Mr. Korthoff to withdraw from the original subdivision. Mr. Holland did not feel that the applicant was asking for a variance to build on a small piece of property because the property originally consisted of three acres. He did not believe the Planning Commission would be setting a precedent in granting this request for one single lot.

Chair Larson closed the public hearing.

Planning Commission Meeting
Minutes of November 18, 1998
Page 13

Commissioner Zimney asked if the property would have been sufficient for the Estate Zone if Mr. Korthoff had not dedicated 1.5 acres to the City. Planner LoPiccolo replied that Hearthstone Subdivision is in the Estate Zone, and the 1.5 acres plus the acreage in the current application would have comprised three acres which is sufficient to meet the Estate Zone requirement. This situation is different because Mellow Mountain Road runs through the property, and Mr. Korthoff's dedication was used for open space.

Commissioner Hays asked if Hearthstone would meet the open space requirement without the 1.5 acres. Planner LoPiccolo replied that it would because it goes back to the original MPD. Assistant City Attorney Mark Harrington explained that the City originally took the position that even though the acreage may have been sufficient without the dedication, the Hearthstone plat could not be recorded without the dedication of that open space because it was part of the original MPD approval. This is important to Mr. Korthoff because he did not dedicate it; the bankruptcy trustee did. The property was in holding at the time, and Mr. Korthoff objected to the dedication because he wanted to retain it for a future subdivision.

MOTION: Commissioner Hier moved to forward a POSITIVE recommendation for the proposed plat amendment application to amend the Hearthstone Subdivision based on the findings of fact,

NOT BY OR FOR THE CITY OF
THE PLANNING COMMISSION

Planning Commission Meeting
Minutes of November 18, 1998
Page 14

conclusions of law, and conditions of approval outlined in the staff report. Commissioner Zimney seconded the motion.

VOTE: The motion passed by a vote of 3 to 2, with Commissioners Larson, Zimney, and Hier voting in favor of the motion and Commissioners Erickson and Hays voting against the motion. Commissioner O'Hara abstained from the vote.

Findings of Fact - 1376 Mellow Mountain Road

1. The property is zoned Estate and was approved for two lots in the Hearthstone MPD on June 17, 1993.
2. The proposed plat amendment will amend the Hearthstone Subdivision to include lots 11 and 12 as originally approved.
3. Proposed Lot 11 has an existing house built on it.
4. The applicant agrees to grant the City an easement for the trail as outlined in Exhibit A.
5. The applicant contributed in excess of six acres to the original MPD.

Conclusions of Law - 1376 Mellow Mountain Road

1. There is good cause for the amendment.

NOT AT ALL FOR 0-00 THE SECRETARY'S OFFICE THE NOT FOR THE 10-10
Planning Commission Meeting
Minutes of November 18, 1998
Page 15

2. Neither the public nor any person will be materially injured by the proposed amendment.
3. The proposal is consistent with Park City LMC Chapter 15 and the MPD approved June 17, 1993.

Conditions of Approval - 1376 Mellow Mountain Road

1. The trail easement as shown on Exhibit A shall be dedicated to the City on the plat. The easement shall be six feet wide.
2. All conditions of approval of the MPD approved June 17, 1993, still apply.
3. The City Engineer and City Attorney's review and approval of the plat for compliance with State Law and these conditions of approval is a condition precedent to plat recordation.
4. This approval shall expire one year from the date of City Council approval unless the plat has been recorded with Summit County.
5. All Standard Project Conditions shall apply.
6. The maximum house size for Lot 12 is 6,000 square feet. The maximum house size for Lot 11 is "as built" at 14,000 square

Planning Commission Meeting
Minutes of November 18, 1998
Page 16

feet (no additions resulting in additional square footage allowed). These restrictions shall be noted on the plat.

7. A 10-foot, non-exclusive snow storage and utility easement shall be dedicated on the plat to the City along Mellow Mountain Road.
8. The applicant shall quit claim to the City in a form approved by the City Attorney all interest in the open space parcel dedicated to the City as part of the original Hearthstone Subdivision.

The Park City Planning Commission Meeting adjourned at 7:25 p.m.

Approved by Planning Commission _____

CITY COUNCIL STAFF REPORT

Date: December 10, 1998
Department: Planning Department
Title: 1376 Mellow Mountain Road
Type of Item: Consent

Summary Recommendations

Conduct a public hearing and consider adopting the attached Ordinance approving a plat amendment as conditioned to amend the Hearthstone Subdivision.

A. Topic

Applicant: Herb & Barbara Korthoff - Ed Klarich, Representative
Location: 1376 Mellow Mountain Road
Proposal: Plat & Subdivision Amendment
Zoning: Estate
Project Planner: Kevin LoPiccolo
Adjacent Land Uses: Single-Family, Open Space

B. Background

On November 18, 1998, the Planning Commission voted to forward to City Council a positive recommendation to approve the plat amendment to the original Hearthstone subdivision to allow the applicant to rejoin Hearthstone subdivision, as originally approved in 1993.

Hearthstone Subdivision was denied by the Planning Commission on May 26, 1993. The overlying factor in the denial was that the proposed application did not comply with the Sensitive Lands Ordinance. The applicants appealed the Commission's decision and the City Council approved the MPD on June 17, 1993. The Council's decision was based on the Legal's Department position on having the Sensitive Lands Ordinance reviewed in bankruptcy court where the difficulties in enforcing land use regulations is much more difficult rather than general law where land use would be discussed. The Council granted the appeal and approved 12 lots, deleting lot 7 that was considered highly visible and was contrary to Chapter 10 Master Planned Development criteria.

The applicant, Herb Korthoff, during the 1993 subdivision approval had an existing home on a parcel that was proposed to be lots 11 & 12 of the Hearthstone Subdivision. As part of the 12 lot subdivision, Korthoff's parcel was to be subdivided. Mr. Korthoff in 1994 requested that his

property be withdrawn from the subdivision approval of the 12 lot subdivision due to opposition of the proposed trail location approved as part of the original subdivision and part of the Master Trail Plan.

That request withdrew lots 11 and 12 from the final plat approval, but the property still has the benefit of the 1993 MPD approval.

C. Analysis

The applicant is requesting an amendment to the original Hearthstone subdivision to allow Mr. Korthoff to rejoin the Hearthstone subdivision, as originally approved in 1993.

The parcel is 4.724 acres and currently has a single family home built on it. The applicant is proposing that the subdivided parcel be 1.528 acres. Under the original MPD the subdivision was required to provide 60% open space, but was not mandated under the MPD to reflect 3 acre lots for the 12 lot subdivision. The open space dedication of Blocks 2 & 4 dispersed among the lots exceeds the 3 acre minimum per lot. Mr. Korthoff is asserting that when the subdivision was recorded, 1 ½ acres of his property which falls within Block 4 was dedicated to the city. Mr. Korthoff is requesting that the 1 ½ acres of open space dedication be considered in the evaluation of the proposal to subdivide.

Trails

This issue has been resolved. The approved trails plan from the original Hearthstone Subdivision did show a trail connection from the west side of Mellow Mountain Road, across the road and across a portion of what is proposed lot 11 to an existing dirt trail which heads to the east. When the original amendment was modified in 1994 to reduce the 12 lots to a 10 lot subdivision, the trail was eliminated and the connection never occurred.

The applicant proposes to provide a public trail that adheres to the original Hearthstone Subdivision and the City's Master Trail Plan. The proposed trail is shown on Exhibit "A".

D. Public input

This project was noticed to property owners within 300' of the affected property and all property owners within the affected subdivision plat on September 22, 1998. A letter was received on September 28, 1998 opposing the proposed change. Letter is attached as Exhibit "C". Mr. Elwood Nielson, who still asserts an ownership interest in Mellow Mountain Road, contends that the applicant does have access to the road. The City views this as a private dispute to be addressed by the parties outside of the platting process.

Alternatives

- A. Approve the proposed plat amendment creating two lots, one 3.196 acres for lot 11 and 1.528 acres for lot 12.
- B. Deny the plat amendment & Subdivision and retain the original form of the property.

C. Continue the item and request further evaluation from the staff.

Significant Impacts

Approval of the plat amendment & Subdivision will allow the property owner to sell of 1.528 acres of his existing lot for development of one dwelling on lot 12. Approval of this request would be consistent with the original MPD that was approved for a 12 lot subdivision in 1993. The amendment & subdivision gives the city an opportunity to get a public trail connection that was lost when the applicant originally withdrew from Hearthstone Subdivision in 1994.

Consequences of not taking the recommended action

Denial of this application would prohibit the property owner from subdividing his property into two lots of record. The City would not get the final trail connection and the applicant would probably seek to reinstate the litigation against the City.

Recommendation

The Community Development Department recommends approval of the proposed Plat Amendment application to amend the Hearthstone Subdivision, based upon the following findings, conclusions and conditions of approval:

Findings of Fact:

1. The property is zoned Estate and was approved for two lots in the Hearthstone MPD on June 17, 1993.
2. The proposed plat amendment will amend the Hearthstone Subdivision to include lots 11 and 12 as originally approved.
3. Proposed lot 11 has an existing house built on it.
4. The applicant agrees to grant the City an easement for the trail as outlined in Exhibit A.
5. The applicant contributed in excess of six acres to the original MPD.

Conclusions of Law:

1. There is good cause for the amendment.
2. Neither the public nor any person will be materially injured by the proposed amendment.
3. The proposal is consistent with Park City LMC Chapter 15 and the MPD approved June 17, 1993.

Conditions of Approval:

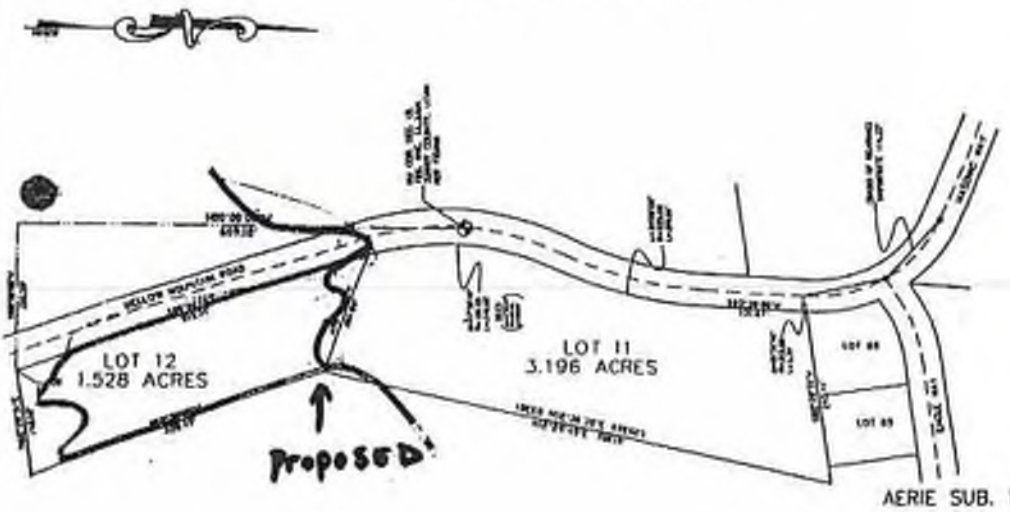
1. The trail easement as shown on Exhibit A shall be dedicated to the City on the plat. The easement shall be six feet wide.
2. All conditions of approval of the MPD approved June 17, 1993 still apply.
3. The City Engineer and City Attorney's review and approval of the plat for compliance with State Law and these conditions of approval is a condition precedent to plat recordation.
4. This approval shall expire one year from the date of City Council approval unless the plat has been recorded with Summit County.
5. All Standard Project Conditions shall apply.
6. The maximum house size for lot 12 is 6,000 square feet. The maximum house size for lot 11 is "as built" at 14,000 square feet (no additions resulting in additional square footage allowed). These restrictions shall be noted on the plat.
7. A ten- foot non-exclusive snow storage and utility easement shall be dedicated on the plat to the City along Mellow Mountain Road.
8. The applicant shall quit claim to the City in a form approved by the City Attorney all interest in the open space parcel dedicated to the City as part of the original Hearthstone Subdivision.

Exhibits

- A. Plat Amendment & proposed trail location
- B. Vicinity Map Original
- C. Letter from property owner
- D. Minutes from November 18, 1998 Planning Commission
- E. Standard Project Conditions
- F. Proposed Ordinance

HEARTHSTONE SUBDIVISION

LOCATED IN SECTIONS 15 & 16, TOWNSHIP 2 SOUTH,
RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH



AERIE SUB. 1

THE STATE OF UTAH, COUNTY OF SUMMIT, BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing plat, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this day of _____, A.D. 19__.

Notary Public in and for the State of Utah.

STATE OF UTAH, COUNTY OF SUMMIT, BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing plat, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this day of _____, A.D. 19__.

Notary Public in and for the State of Utah.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at _____, Utah, this day of _____, A.D. 19__.

Notary Public in and for the State of Utah.

STATE OF UTAH, COUNTY OF SUMMIT, BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing plat, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this day of _____, A.D. 19__.

Notary Public in and for the State of Utah.

HEARTHSTONE SUBDIVISION

LOCATED IN SECTIONS 15 & 16

T. 2 S., R. 4 E., S. 11 & 12 N.

PARK CITY, SUMMIT COUNTY, UTAH

EXHIBIT A - PLAT AMENDMENT & PROPOSED TRAIL CONNECTION

FILE PLANNING COMMISSION APPROVED AS TO FORM AND CONTENT DATE: _____ FILED BY: _____	PLANNING BOARD REVIEW APPROVED AS TO FORM AND CONTENT DATE: _____ FILED BY: _____	ENGINEER'S CERTIFICATE I, _____, a duly licensed Professional Engineer in the State of Utah, do hereby certify that the foregoing plat is a true and correct copy of the original plat as filed with me, and that the same conforms to the requirements of the Utah Subdivision Map Act. DATE: _____ FILED BY: _____	ATTORNEY AT LAW APPROVED AS TO FORM AND CONTENT DATE: _____ FILED BY: _____	CERTIFICATE OF ATTORNEY I, _____, a duly licensed Attorney at Law in the State of Utah, do hereby certify that the foregoing plat is a true and correct copy of the original plat as filed with me, and that the same conforms to the requirements of the Utah Subdivision Map Act. DATE: _____ FILED BY: _____	FILED BY CLERK APPROVED AS TO FORM AND CONTENT DATE: _____ FILED BY: _____	RECORDED APPROVED AS TO FORM AND CONTENT DATE: _____ FILED BY: _____
---	--	---	--	--	---	---

1376 Mellow Mountain Rd.



EXHIBIT B

Vicinity Map



9-28-98

Park City Planning Dept.
Park City, UT 84060

Dear Planning Commission:

This letter is in response to the notice I received with regard to the 1376 Mellow Mountain Road, Hearthstone Subdivision.

I was my understanding when I purchased property in the Aerie Subdivision that the lots were already determined and that the size and number of homes per size of the lot was set.

I have lived in the Aerie for eight years and it has always been a battle to try and prevent the Planning dept from changing the already established size of the land parcels. It is my understanding that what had been zoned would remain so. I would not have purchased property if I was told that the established size and building limitations could be changed whenever anyone with enough money could persuade the commission to do just that.

The value of the property we own in the Aerie would change dramatically should you change the one home per three acre as set forth in the Estate Zone plans which have previously been adopted.

Should the City continue to act without regard to the open space and the wishes of the residents, with their reckless policies of do whatever the developers want, I myself feel that the Aerie Homeowners Association should file suit against the City for damages as a result of over building where specific guidelines prohibit. The Estate Zone was in place long before some developer decided to try to change our neighborhood. The developer was aware when they purchased the property what the zoning was, and now they should be forced to live with those guidelines. It is about time that the city took a stand. If you approve one change in the zoning, then everyone in the rest of the Aerie will want to have changes made.

Please vote against any changes to the established zoning laws currently in place in the Aerie.

EXHIBIT C - LETTER FROM AERIE PROPERTY OWNER

RECEIVED

SEP 28 1998

PARK CITY
PLANNING DEPT.

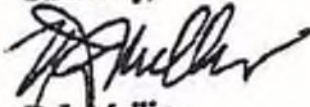
SEP 28 1998 20:27 P.O.

FAX: 801-434-2341

SIGNATURE MESSAGE

Thank you for your time.

Sincerely,



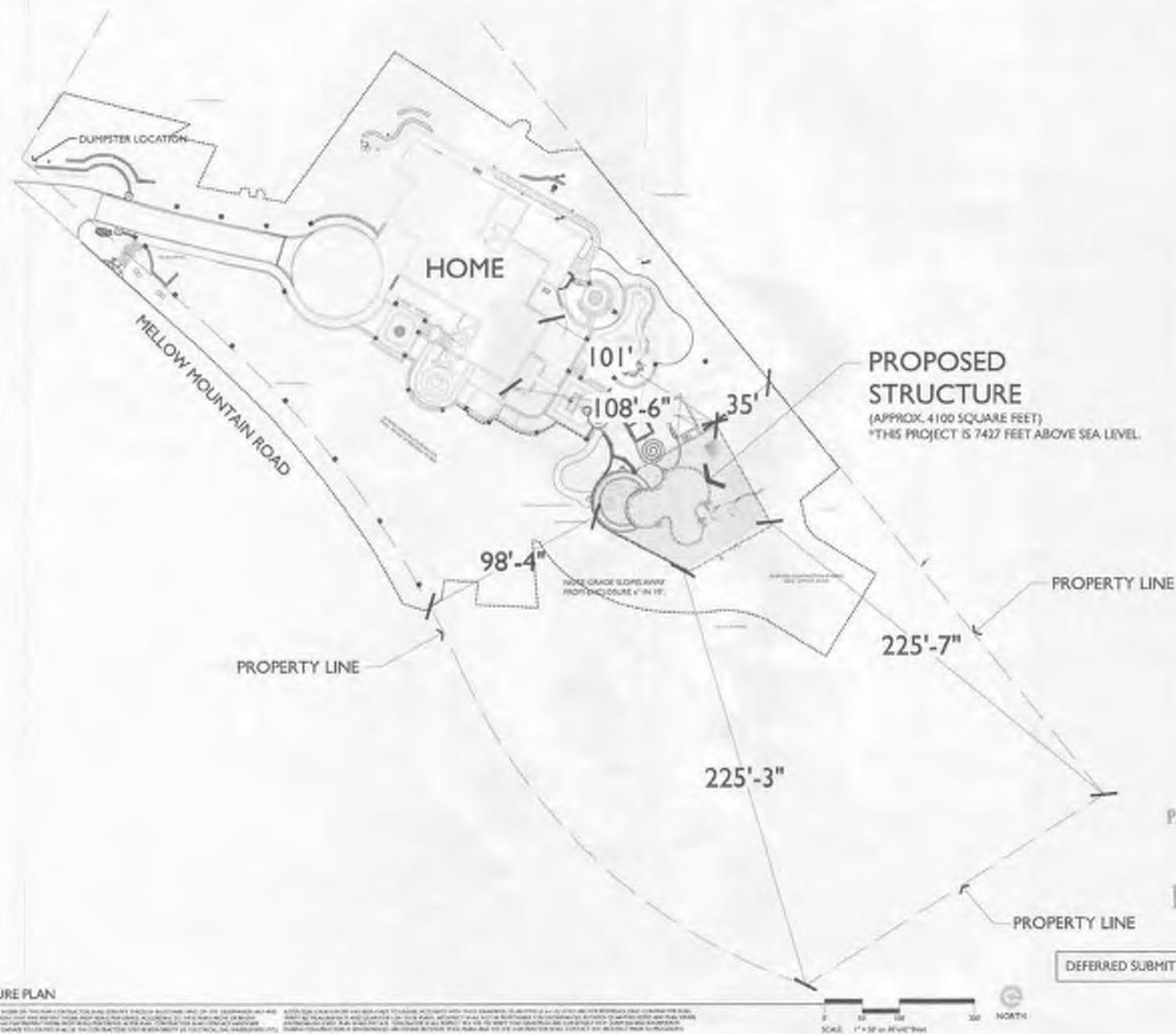
R.J. Mullin

Sep 28 '98 20:28 P.02

SIGNATURE MORTGAGE Fax: 801-484-2341

Exhibit J -2015 Building Permit Plans

Planning Commission Packet December 14, 2016



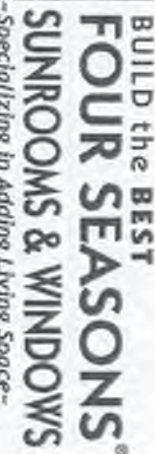


northland
 DESIGN GROUP
 landscape architecture | landscape design
 22841 Canyon Boulevard, Suite 100, Park City, Utah
 801.224.4774

CAMARATA RESIDENCE
 1375 MELLOW MOUNTAIN ROAD, PARK CITY, UTAH

SITE





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FOUR SEASONS®
SUNROOMS & WINDOWS**
-Specializing in Adding Living Space-

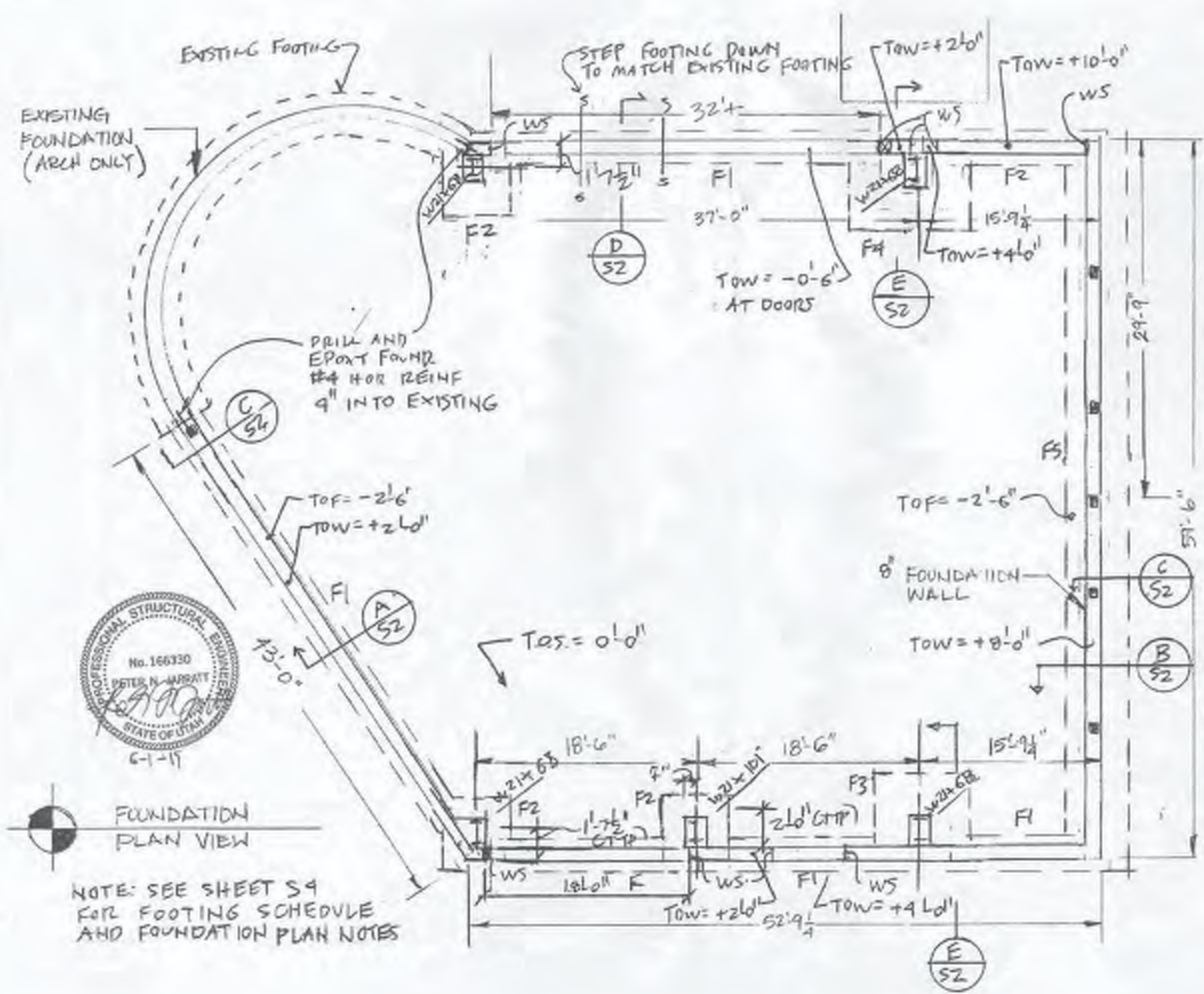
APPROVED
BY MUNICIPAL COUNCIL
JUL 02 2015

ING DEPT.

ING DEPT.

Home Owner:	CARAPATA RESIDENCE	Project:	POOL ENCLOSURE
Address:		Drawn By:	KLT
City, State, Zip:		Scale:	1/8" = 1'-0"
Home Phone:		Solar Design Contractors License number:	274722-5501

Field verify all measurements



NOTE: SEE SHEET S4
FOR FOOTING SCHEDULE
AND FOUNDATION PLAN NOTES

Solar Design, Inc. DBA: Four Seasons Sunrooms of Utah
342 W 3000 S • Salt Lake City, UT 84115 • 801-532-2000 (O) • 801-506-0179 (F)



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More Reasons for Four Seasons

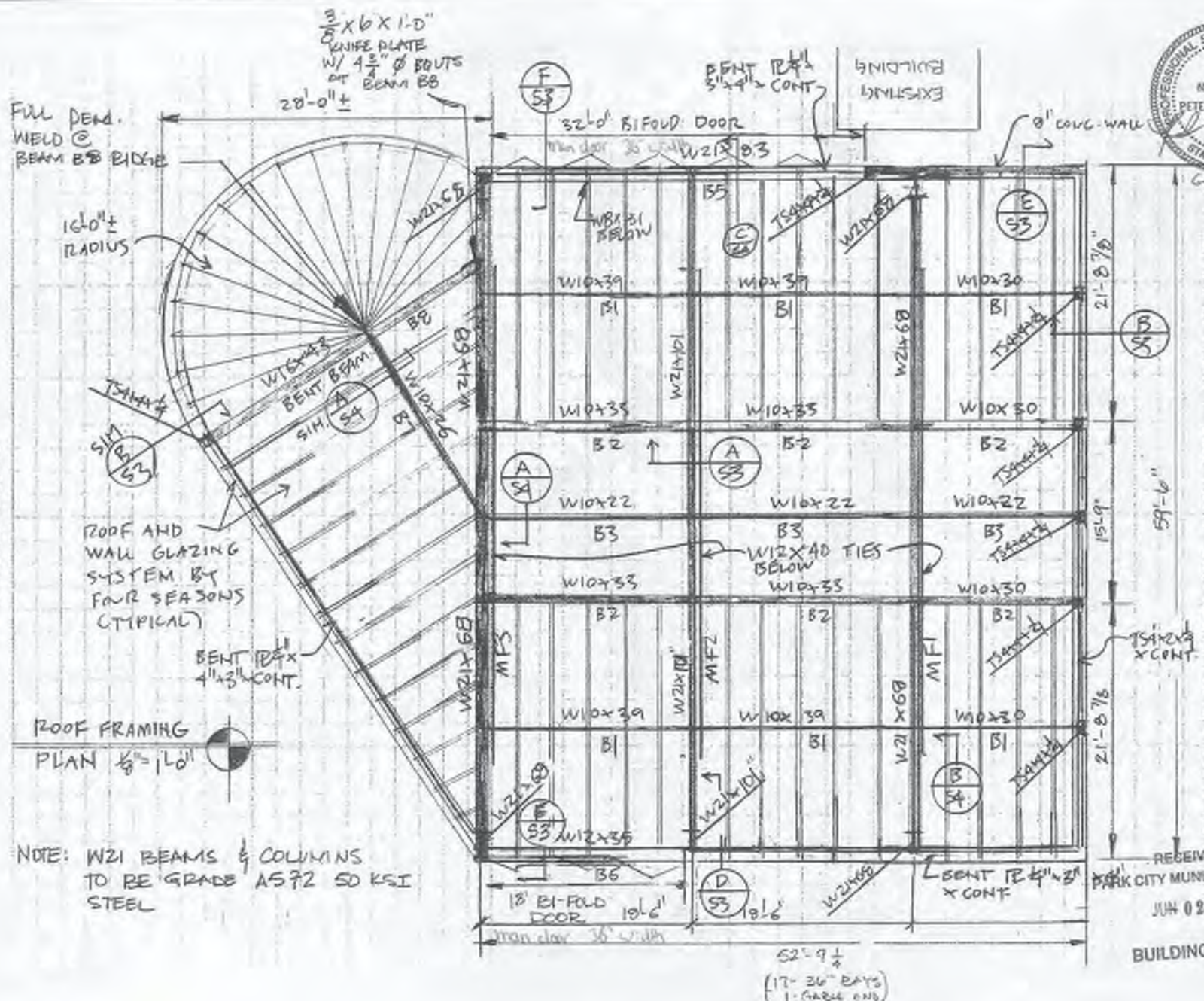
Sunrooms • Windows • Room Additions

Home Owner:	DALE & TERI CAVALEATA	Project:	POOL ENCLOSURE
Address:	1376 MELLOW MOUNT ROAD	Drawn By:	PAT
City:	PARK CITY, UT 84060	Scale:	1/8" = 1'-0"
Home Phone:	619-405-9900	Solar Design Contractors License Number:	274722-5500



Architectural Drawings

Field verify
RECEIVED
PARK CITY MUNICIPAL CORP
JUN 02 2015
BUILDING DEPT



Roof Framing
PLAN 1/8" = 1'-0"

NOTE: W21 BEAMS & COLUMNS
TO BE GRADE A572 50 KSI
STEEL



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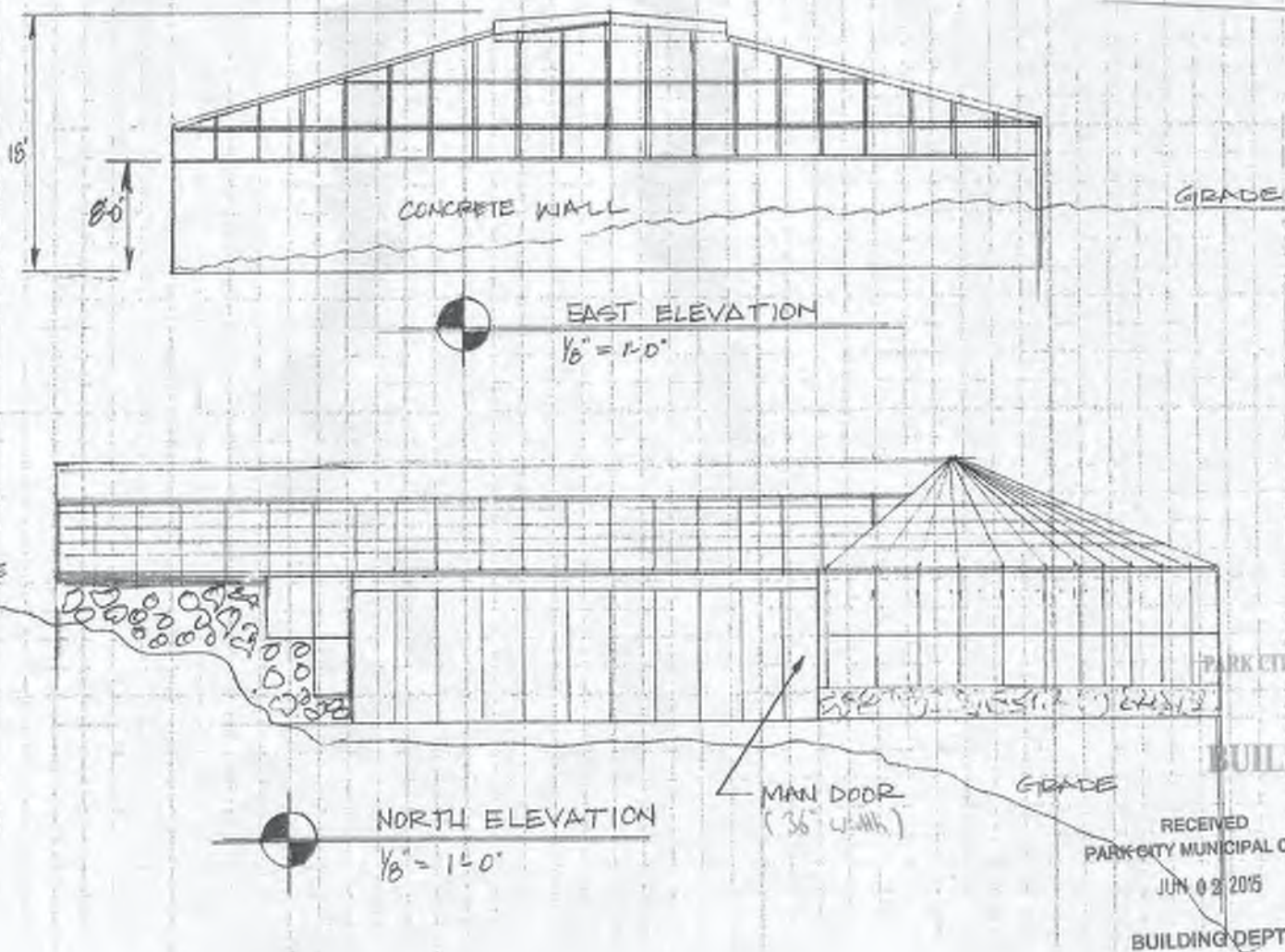
Sunrooms • Windows • Room Additions

More Reasons for Four Seasons

Home Owner:	SAMARATA RESIDENCE	Project:	POOL ENCLOSURE
Address:	1376 MELLOW MNT ROAD	Drawn By:	RAT
City, State, Zip:	PARK CITY UT 84060	Scale:	
Home Phone:		Solar Design Contractors License number:	274722-5501

Architectural Drawings

Field verify all measurements



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PARK CITY MUNICIPAL CORP
JUL 02 2015
BUILDING DEPT.

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JUN 02 2015
BUILDING DEPT.

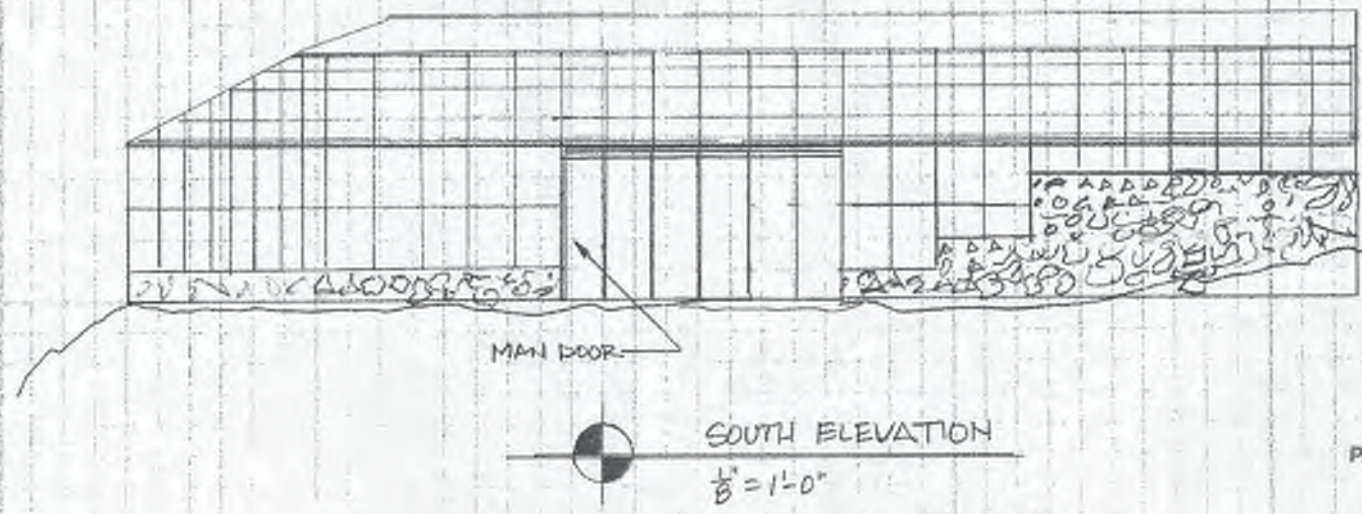
Four Seasons Home Products
4892 S Commerce Drive • Salt Lake City, Utah 84107 • (801) 532-2000
www.fourseasonsuh.com

Sunrooms • Windows • Room Additions

Home Owner:	CANABATA RESIDENCE	Project:	POOL ENCLOSURE
Address:		Drawn By:	RAH
City, State, Zip:	PC UT 84060	Scale:	1/8" = 1'-0"
Home Phone:		Solar Design Contractors License Number:	274722-5501

Architectural Drawings

Field verify all measurements

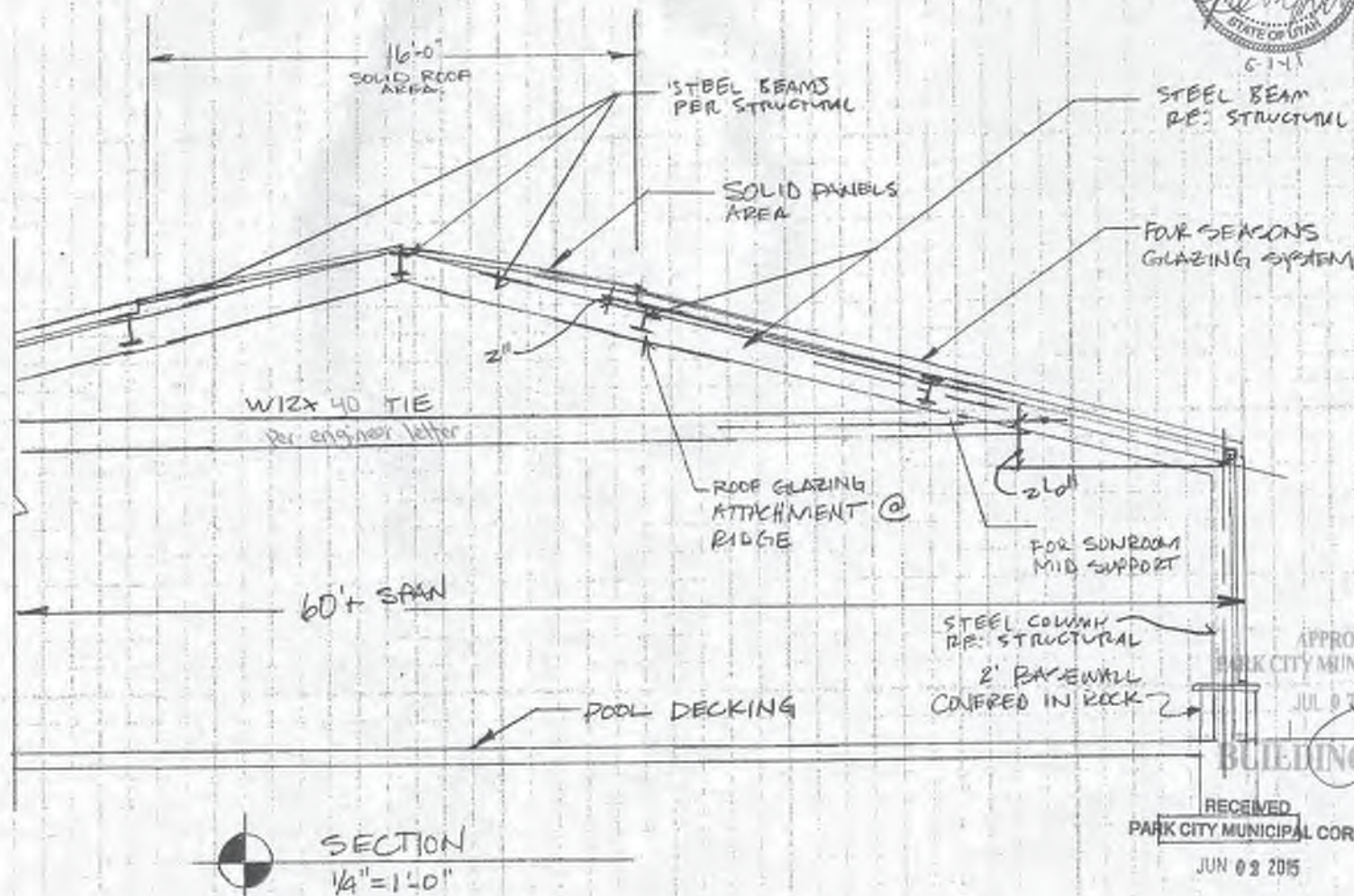


APPROVED
 PARK CITY MUNICIPAL CORP
 JUL 17 2015
 BUILDING DEPT.
 RECEIVED
 PARK CITY MUNICIPAL CORP
 JUN 02 2015
 BUILDING DEPT

Home Owner:	Project:
Address:	Drawn By:
City, State, Zip:	Scale:
Home Phone:	Solar Design Contractors License number: 274722-5501

Architectural Drawings

Field verify all measurements



APPROVED
PARK CITY MUNICIPAL CORP
JUL 07 2015
BUILDING DEPT.
RECEIVED
PARK CITY MUNICIPAL CORP
JUN 02 2015
BUILDING DEPT



445 Marsac Avenue, P.O. Box 1480, Park City, UT 84060
Tel 435.615.5100 fax 435.615.4900 www.parkcity.org

BUILDING PERMIT NO: BD-16-22329
ADDRESS: 1376 Mellow Mountain Road
ARCHITECT: JZW Architects
DATE: June 15, 2016
PLAN REVIEWER: Jim Hardy

These plans were checked to the 2012 Ed.

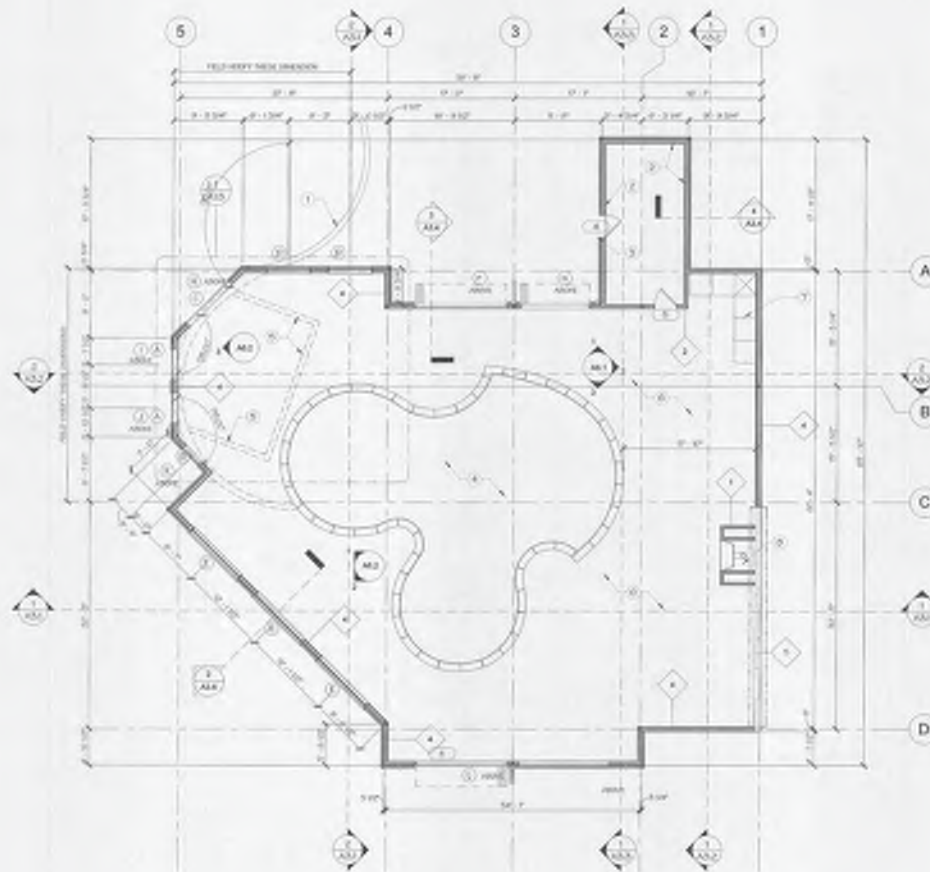
The above building permit application has been reviewed for code compliance. The following are the necessary items, comments and/or corrections needed for building permit approval:

1. The plat states that a maximum of 14,000 square feet can be constructed on the lot. It appears that you will exceed the allowable square footage.
2. Please provide a site plan.
3. Please show all construction mitigation on the site plan.
4. This pool house requires a fire sprinkler system.
5. Please add deferred submittals to the cover sheet.
6. Please show an LOD on the site plan.
7. Please provide the square footage of the LOD.
8. Please provide a certified topography plan.
9. Please show proper drainage from the building on the site plan.
10. You will need to note the use of the smaller room on the floor plan.
11. Note all door/window types on the floor plan.
12. Note all tempered glass as needed on the door/window schedules.
13. You will need to note all requirements for electrical around and above a pool on the electrical plans.
14. Please provide a power plan.
15. You will need double underlayment for roof pitch less than 4:12.
16. Please provide an unvented attic detail.
17. Note three on the section view states "storage". Please correct this note.
18. Frost protection for the footings will need to be 40" minimum.
19. Please show proper insulation for the slab on grade.

20. Please provide a special inspection agreement.
21. Note the top of footing elevation on the elevation/section pages.
22. ID all trellis framing. All exterior framing will need to be PPT.
23. Please note the square footage of the building.
24. Please provide a paid receipt from Snyderville Basin Water Reclamation District.
25. Please provide a paid receipt from Park City Fire District.
26. Please add a 6mil vapor barrier under the slab.
27. Please show the location of the ufer ground.
28. Please show the location of the sub-panel.

Exhibit L - 2016 Building Permit Plans

Exhibit L - 2016 Building Permit Plans



MAIN FLOOR PLAN
1/8" = 1'-0"

- GENERAL NOTES**
- SEE GENERAL NOTES ON SHEET PL-01 FOR ADDITIONAL REQUIREMENTS.
 - CONCRETE TO BE 3000 PSI AND WINDUPTAKE TO BE 1000 PSI UNLESS OTHERWISE NOTED OTHERWISE.
 - SEE STRUCTURAL DRAWINGS AND CALCULATIONS FOR ALL STRUCTURAL REQUIREMENTS, INCLUDING FOUNDATION WALL SPECIFICATIONS, AND THE MAINT. AND REPAIRS REQUIREMENTS.
 - COORDINATE ALL WINDOW SIZES AND HEIGHTS AND ADD WITH SCREENS AND WINDOW TREATMENTS.
 - SEE LANDSCAPE PLANS FOR PAUL DECK, PLANTING AND PLANTING.
 - OVERALL DIMENSIONS OF CHAIR ROOF EDGING HUNG UP ARE BASED ON EXISTING FOG, HANG DECK.

- NOTES**
- EXISTING RETAINING WALL.
 - EXISTING WALL TO REMAIN NEW SIDING TO BE INSTALLED TO EXISTING WALLS.
 - EXISTING ROOF TO REMAIN.
 - EXISTING POOL TO REMAIN.
 - EXISTING WALLS OF POOL SUPPORT ROOM BELOW.
 - 4" CONCRETE FLOOR ON GRADE.
 - DOORCASE.
 - PROVIDE FLOOR JOIST TIEBACKS AS SHOWN AND PER OWNER, PROVIDE AND INSTALL NEW AND OLD-WOODEN ROOFPLATE AS PER UNDERPINNINGS SPECIFICATIONS.

PROJECT NUMBER
15106

ISSUE DATE:
MAY 15, 2016

REVISIONS:
No. Date

CAMARATA POOL HOUSE
PARK CITY, UTAH

MAIN FLOOR PLAN

A1.1

PAUL R. JZW
ARCHITECTS
PARK CITY, UTAH

JZW
ARCHITECTS

FAX: 801.225.5160

115 EAST CENTER STREET, SUITE 100, PARK CITY, UTAH 84302

PHONE: 801.225.5161

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PROJECT NUMBER
15106

ISSUE DATE:
MAY 15, 2015

REVISIONS:
No. Date

CAMARATA POOL HOUSE
PARK CITY, UTAH

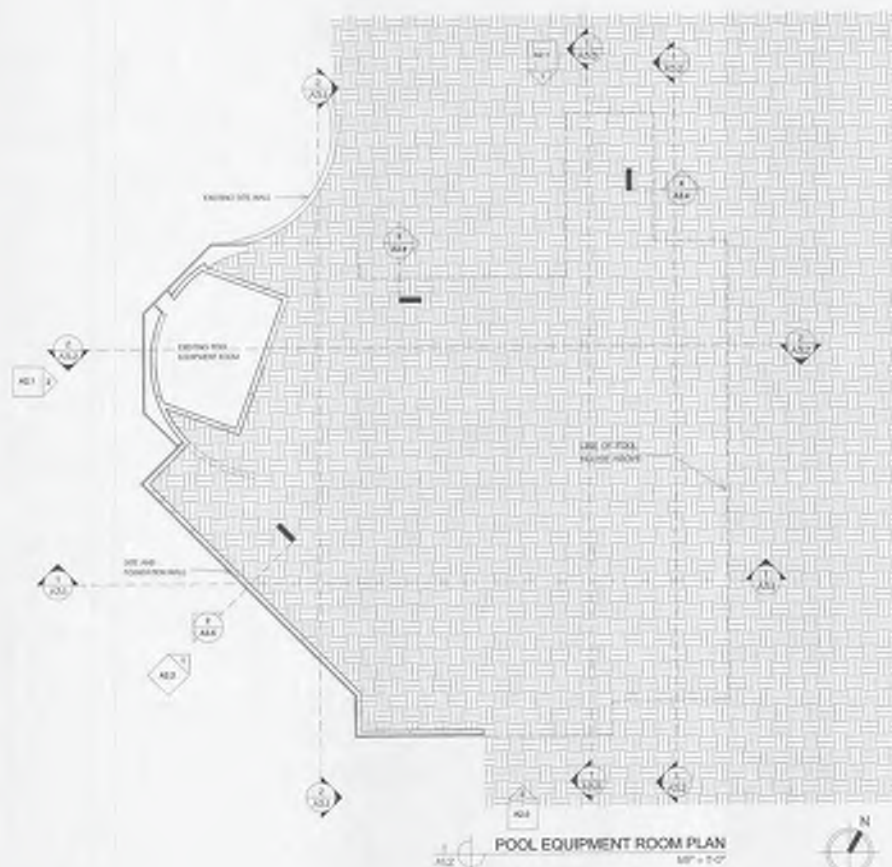
POOL EQUIPMENT
ROOM PLAN

A1.2

Professional Seal
Architect
JZW

RECEIVED
PARK CITY MONITORING CODE
MAY 23 2015
BUILDING DEPT

JZW
ARCHITECTS



PROJECT NUMBER
15106

ISSUE DATE:
MAY 18, 2016

REVISIONS:

No. Date

CAMARATA POOL HOUSE
PARK CITY, UTAH

ROOF PLAN

A1.4



RECEIVED
PARK CITY MUNICIPAL CORP.
MAY 13 2016
BUILDING DEPT.

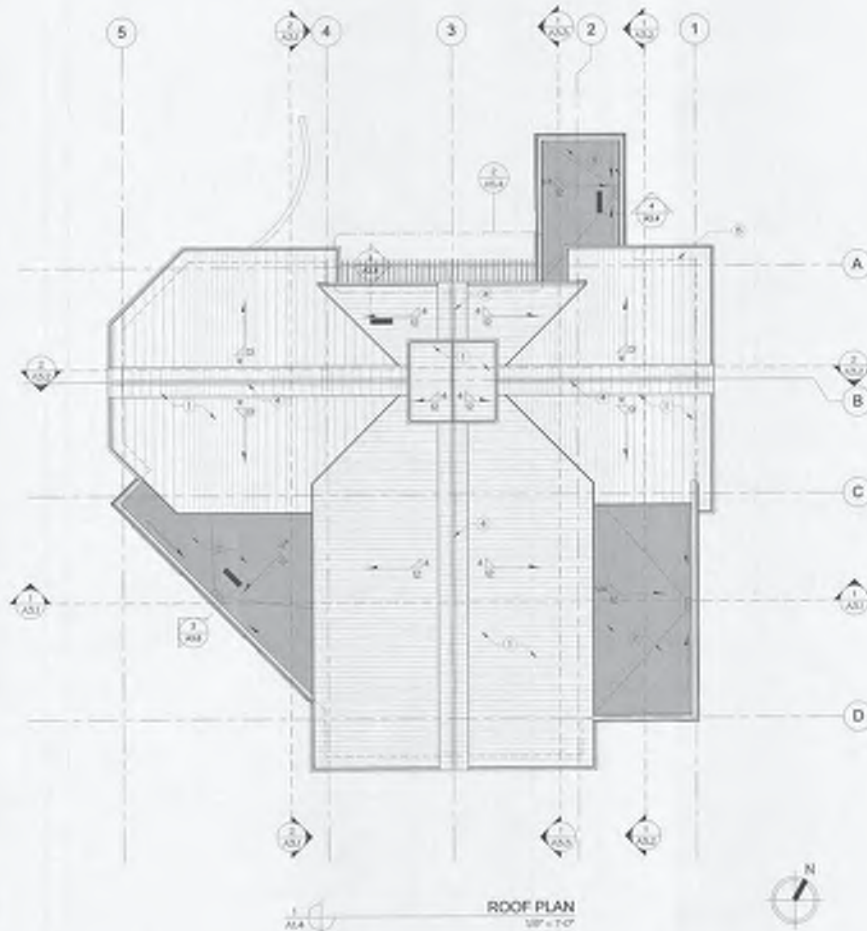
JZW
ARCHITECTS

GENERAL NOTES

1. ALL ROOF AND WATER DRAINS ARE TO BE INSTALLED TO DRAIN AWAY FROM BUILDING.

NOTES

1. STAINLESS STEEL METAL ROOF TO MATCH EXISTING ROOF.
2. FLASHING WITH CORRODIBLE FIBERGLASS.
3. INTERIOR EXTERIOR DRAINAGE ROOF ASSEMBLY TO BE AS SHOWN ON EXISTING ROOF.
4. PRE-INSULATED METAL ROOF TO MATCH EXISTING ROOF.
5. USE OF EXTERIOR WALL FLASHING.



ROOF PLAN
1/8" = 1'-0"

PROJECT NUMBER
15106

ISSUE DATE:
MAY 18, 2016

REVISIONS:
No. Date

CAMARATA POOL HOUSE
PARK CITY, UTAH

ELEVATIONS

A2.0



RECEIVED
PARK CITY MUNICIPAL CORP
MAY 13 2016
BUILDING DEPT
JZW
ARCHITECTS

KEYED NOTES:

1. GROUND FINISH TO MATCH EXISTING DRIVE.
2. EXISTING FLAT ROOF, KEEP TO MATCH EXISTING DRIVE.
3. GROUND TO MATCH EXISTING DRIVE.
4. RANDOM ASPHALT JOINTS TO MATCH EXISTING DRIVE.
5. NEW TO MATCH EXISTING DRIVE.
6. WOOD FINISH TO MATCH EXISTING DRIVE.
7. AIR HANDLING.
8. FLAT ROOF SYSTEM.
9. RANDOM GLASS WALL SYSTEM.
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NORTH EAST ELEVATION
9'4" x 1'0"

SOUTH EAST ELEVATION
9'4" x 1'0"

Exhibit M - Engineering's formal denial of Building Permit
BD-16-22329

From: [Steven Arhart](#)
To: dl@loomishomespc.com
Cc: [Jim Hardy](#); [Makena Hawley](#)
Subject: Engineering Plan Review for 1376 Melow Mountain Road (BD-16-22329)
Date: Wednesday, May 18, 2016 2:33:36 PM
Attachments: [image001.png](#)

Hello,

Engineering has completed their review for 1376 Melow Mountain Road (BD-16-22329). The plans have been denied for the following reason that must be addressed prior to approval of building permit.

1. Maximum square footage is 14,000 square feet. Per prior building plans the current floor area is 12,717 square feet (including the 600 square feet that is allowed for garages).
 - a. Upper Level is 1,831 square feet.
 - b. Main Level is 5,743 square feet.
 - c. Lower Level is 2,883 square feet.
 - d. Garage is 2,860 square feet.

Also, an engineering permit will be required for work in the ROW. Thanks.

Steven Arhart, EIT
Public Improvements Engineer
445 Marsac Avenue
Park City, UT 84060
435.615.5077 office



Exhibit N - Survey of 1376 Mellow Mountain Road provided by applicant





July 12, 2016

1376 Mellow Mountain Road
Park City, UT 84060

NOTICE OF PLANNING DIRECTOR DETERMINATION:

Project Address: 1376 Mellow Mountain Road
Zoning: Estate (E) zone
Project Description: Planning Director Determination of plat note regarding house size for Lot 11 of the First Amendment to Hearthstone Subdivision
Project Number(s): BD-16-22329
Date of Action: July 12, 2016

ACTION TAKEN BY PLANNING DIRECTOR:

The Planning Director has reviewed your submitted information, including the survey you supplied (dated 6/28/16, prepared by Level of Focus, Inc.) and determined that the Maximum House Size to be 11,892 square feet.

(Main level 6,693 square feet, plus Upper level 1,933 square feet, plus the Lower level above Final grade 3,266 square feet- total square footage equals 11,892 square feet as noted on the referenced survey).

The proposed 4,617 square foot pool house would effectively put Lot 11 over the 14,000 square feet allowable by the plat, therefore may not be approved by the Planning Department. This determination is based on the following:

1. First Amendment to Hearthstone Subdivision

(1) Plat note reads: "The Maximum house size for Lot 12 is 6,000 square feet. The maximum house size for Lot 11 is 14,000 square feet, with no additions resulting in additional square footage over 14,000 square feet allowed.

2. § 15-15-14 Defined Terms

1.165 MAXIMUM HOUSE SIZE. A measurement of Gross Floor Area.

1.107 FLOOR AREA.

- A. *Floor Area, Gross Residential. The Area of a Building, including all enclosed Areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet¹, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.*

1.105 FIRST STORY. The lowest Story in a Building provided the floor level is not more than four feet (4') below Final Grade for more than fifty percent (50%) of the perimeter. Can include habitable or uninhabitable Floor Area.

The previous determinations using Appraiser information are not applicable to this permit. You have the option of amending the plat or appealing the final determination to the Planning Commission. The Appeal process is Land Management Code Section 15-1-18. All appeals must be made within ten (10) calendar days of this Final Action.

If you have any questions regarding this determination, please don't hesitate to contact the Planning Department at 435-615-5060.

Sincerely,



Bruce Erickson, AICP
Planning Director

CC: Makena Hawley, Planner

Exhibit P - Original Appeal of Planning Director's first
Determination

Joseph E. Tesch (A3219)
TESCH LAW OFFICES, P.C.
314 Main Street, Suite 201
P.O. Box 3390
Park City, Utah 84060-3390
Telephone: (435) 649-0077
Facsimile: (435) 649-2561
joel@teschlaw.com

**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION**

DAVID CAMARATA

V.

PARK CITY PLANNING DIRECTOR

**NOTICE OF APPEAL OF PLANNING
DIRECTOR DETERMINATION OF
JULY 1, 2016**

PROJECT NO.: BD-16-22329

COMES NOW, David Camarata, owner of the residence located at 1376 Mellow Mountain Road, Park City, Utah, by and through his attorney Joseph E. Tesch and Tesch Law Offices, P.C. and hereby appeals the action of the Planning Director denying a building permit for a pool house at said residence, upon the following grounds and upon such other grounds as may come to light:

1. The First Amendment to Hearthstone Subdivision plat (the "Plat") calls out for this Lot (Lot 11) "The maximum house size... is 14,000 square feet, with no resulting additional square footage over 14,000 square feet allowed." Nowhere on the plat does the term FLOOR AREA appear nor is there any reference to Land Management Code ("LMC") §1.107, the code section used by the Planning Director in calculating the "maximum house size."

Since the term FLOOR AREA was available to the Owners dedicating the Plat and to the City in approving the Plat in 1999, the standard interpretation would be that the intent of those parties was to not incorporate LMC §1.107 into the maximum house size. Therefore, the application of §1.107 is

incorrect unless the intention to incorporate that section is by some evidence shown to be the intent of both parties to the Plat. None has been shown.

Therefore the Planning Director's decision to apply §1.107 appears to be contrary to the intent of the parties drafting and approving the Plat, and apparently because it was handy and contained some formula for determining "FLOOR AREA" but not "maximum house size" the Planning Director used it. But he was incorrect and, at best, arbitrary and capricious in doing so.

For instance, how did the Planning Director determine that the parties didn't intend maximum house size to be determined by using the previously determined Square Feet of Building of 8,457 as determined in January of 1992 by the City Building Department or the methodology employed by the Uniform Residential Appraisal Report?

2. In the year 1992 when the residence was first constructed, the Building Department determined the Floor Area to be 8,487 square feet. No one in the City or anywhere else appealed that determination of the Floor Area and it became the Floor Area. Admittedly, there was an 800 sq. ft. addition bringing the total square foot Floor Area to 9,287 square feet.

In 2016 the Planning Director re-measured this historic square foot Floor Area to total 11,892 sq. ft. This is contrary to law for at least two reasons:

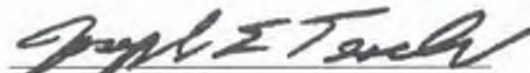
- (a) when the 1992 measurement was not appealed by the City it became set and not variable any more than it could have been changed and altered by the Applicant after the time for appeal had expired; and,
- (b) there is no evidence that, as measured in 1992, it was in error according to the standard measurements used in 1992.

Therefore, while the Planning Director can use his best judgment in determining the square foot total of the requested pool house, that square foot determination can be added only to the original 9,287 historical square footage, which with the new 4,617 square feet computes to less than the maximum 14,000 square feet allowed.

3. The decision of the Planning Director is arbitrary and capricious.
4. Since Applicant has relied upon prior decisions of the City and has spent large amounts of money and resources based upon those decisions, the doctrine of equitable estoppel prohibits the City from denying the building permit for the pool house as requested.
5. The decision by Makena Hawley of the Planning Department in approving the building permit on about April 20, 2016 was the correct decision and should prevail in place of the Planning Director's new decision.
6. The plat calls out a maximum of "14,000 square feet." It does not call out 14,000 square feet of "Floor Area." Therefore, the Planning Director's application of §1.107 Floor Area of the LMC is incorrect and, at best, arbitrary and capricious. The Planning Director's failure to research and apply the concept of the term Floor Area as applied by other sources is arbitrary and the arbitrary application of §1.107 cannot be the basis of his decision.
7. Such other Constitutional, Statutory and case law decisions as may be discovered (requiring an appeal to be filed within 10 days and also requiring to in that short span to fully set forth all the reasons for the appeal is a violation of procedurals due process).

Respectfully submitted this 20th day of July, 2016.

TESCH LAW OFFICES, P.C.


Joseph E. Tesch



Park City Municipal Corp
1 Finance
1620202-1 07/20/2016 BR1 T18
Wed Jul20,2016 04:04PM Trans#170-170
Name: CAMARATA DAVID BERNARD TRUSTEE
Addr: 1376 MELLOW MOUNTAIN RD PARK CIT
170 \$500.00 PRMT - Permits
* Cust #: 00010380
Permit #: PL-16-03247
1 ITEM(S): TOTAL: \$500.00
Check (00003847) PAID \$500.00



Exhibit P - Public Comment support letters from neighbors

To whom it may concern:

Dean and I have been a long term owner of Lot 2 in The Aerie. We know the home 1376 Mellow Mountain through the last three owners. The current owners, Terry and Dave Camarata have made some wonderful improvements to the exterior of the property which, as a neighbor who can see their home, is great. However, the construction of their pool house has been an issue for many months. The building they have proposed is tasteful, a compliment to their property, and in no way will impact our enjoyment of the neighborhood or anyone else's. Having spoken to others in the neighborhood, it is not only my feeling but others as well, that the city should let the project continue as originally permitted.

I spoke with the Camaratas last week and I was told the city had suggested a cover that was tentlike over the pool. That would not be aesthetic and I personally would not want to view it. Their home is one of the prettiest homes in the neighborhood and their construction has absolutely no impact on any one's enjoyment of their home. I am sure it is in the interest of our neighborhood and that of the Camaratas to allow them to complete the poolhouse plans that were approved many months ago. We are now going to have to look at the disrupted landscaping and construction fence for many more months, thanks to some bureaucrat that wants the Camaratas to put a "tent" over the pool—a ridiculous idea in Park City and especially The Aerie.

Sincerely,

Ginny Schulman, Associate Broker, GRI

Keller Williams Park City Real Estate

[\(435\) 602-3600](tel:(435)602-3600)

[\(435\)615-1228](tel:(435)615-1228)

(435) 602-3600 Ginny

(435) 602-3601 Dean

(435) 615-1228 Home

November 28, 2016

Re: 1376 Mellow Mountain Project Completion Recommendation

Dear Sir/Madam,

We are property owners at 1179 Aerie Drive and in relatively close proximity to the Camarata home at 1376 Mellow Mountain as they reside directly above us. It has come to our attention that the construction of their satellite pool house has been suspended and their permit pulled by the City. We certainly appreciate the City's vigilance and thoroughness in ensuring that our wonderful town adheres to only the highest building standards and maintains community integrity and continuity—it's one of the key reasons we determined that Park City, Utah, of all of the places in the world, would become our retirement destination.

In this case, after meeting the Camarata's and discussing their proposed plans in detail, we strongly support the completion of their project. First, it's clear that their home has been tastefully updated and only enhanced our unique hillside enclave. We trust the project at issue will further improve our neighborhood complexion and ultimately support higher property values. The current state is actually a detraction with chain linked fencing and a half completed pool cavity / rough structure. Upon completion, the proposed building and pool should seamlessly meld within the existing property footprint given the Camarata's available acreage. We believe a tent implementation, apparently suggested as an acceptable alternative by the City, would be a challenge given the volatile weather conditions we've experienced along the Aerie hillside, presenting both an extraordinary eyesore from all vantages, including from Old Town and, more importantly, a potential danger under windy conditions to neighboring households.

Accordingly, we are in favor of a re-validation of their previously approved proposal to enable fast tracking construction completion. We appreciate your time and consideration in this matter and would welcome a call or email to further expand upon our recommendation in support of the Camarata's.

Regards,

Thomas and Shanti Schiller
1179 Aerie Drive
Park City, Utah 80460
949.422.0880
thomas.schiller@gmail.com

December 4, 2016

Re: 1376 Mellow Mountain construction.

Dear Sir/Madam,

This letter is in support of the “Camarata” pool project, as originally designed, and previously approved by the city.

We live in the “Aerie’s” and the 1376 Mellow Mountain Camarata home is in full view from our residence. The current stalled state of construction has been an eyesore and economic burden for anyone wishing to sell their property in and around the “Aerie”. Furthermore, we have no concerns with the original design.

Please remove the current construction ban and allow completion of the project...as previously designed...as soon as possible.

Sincerely,

Craig and Patricia Kipp
1264 Aerie Dr
Park City UT 84060
craigkipp55@gmail.com

December 1, 2016

Re: 1376 Mellow Mountain Pool Completion

Dear Sir/Madam,

I have been involved in listing and selling 1401 Mellow Mountain Road which is the property across the street from the Camarata residence at 1376 Mellow Mountain Road. 1401 is the closest property that has any real view of the proposed pool on the Camarata property the new owner as well as the previous owner have had no concern of any impact of their pool house being built. To find out the Park City Building Department granted the building permit and then shortly later revoked it is illogical. The Camarata's have diligently worked to have this project completed only to be stymied by the city building department's change in attitude deciding to pull the permit that was previously granted. It seems to me if there are no neighborhood residents objecting to the construction of this pool house you need to re-grant the permit and allow this project to be completed. To be looking up at construction fencing for the next several years is not going to be an attractive option for any neighbor. Please reconsider reissuing the permit and allow this construction to be completed and the landscaping be restored. The Camarata building plans that were approved will be an attractive addition to the neighborhood if allowed to be completed. The improvements they have made to their property have already raised the neighborhood property values.

Please feel free to contact me for any additional information that I may be able to provide to assist in your decision to reissue their building permit.

Regards,

Scott Kelly

Realtor

435-640-4340

Scott.kelly@sothebysrealty.com

December 1, 2016

I represented Dave and Terry Camarata in the purchase of their residence at 1376 Mellow Mountain Road 6 years ago. From that time, the Camaratas have completed significant exterior improvements to the residence. All of the improvements have been of the highest quality and with the intent to enhance the property in a visually pleasing manner. In my professional opinion, as a local Realtor, I believe their improvements have also increased the nearby and the adjacent homeowners property values. Their property location and large acreage lot is an appropriate site for the pool structure and does not have any negative impact to neighbors.

I am, and have been for many years, an ardent supporter of strict zoning throughout the City and the Basin. There are many examples of poor past zoning and approvals that I think we can all agree are regrettable. In this case, I encourage you to work with the Camarata's in a swift manner to allow them to move forward on their pool structure application. It is my understanding the original approval had been pulled, leaving them and their contractors in a bind. This seems a perfect ease for a reasonable variance. We are all neighbors and strive to keep Park City a friendly and inviting town. Please extend this community spirit to Dave and Terry who support many of our local non profits and are exemplary citizens.



Kathy Mears
Realtor
Summit Sotheby's International Realty

Planning Commission Staff Report



Subject: Main Street Plaza Subdivision
Author: Makena Hawley, City Planner
Project Number: PL-16-03217
Date: December 14, 2016
Type of Item: Legislative – Plat Amendment

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the Main Street Plaza Subdivision, located at 220 & 250 Main Street, and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Description

Applicant: Park City Redevelopment Agency and Schirf Brewing Company
Location: 220 & 250 Main Street
Zoning: Historic Commercial Business (HCB) District and Historic Residential (HR-2) District
Adjacent Land Uses: Commercial, Treasure Mountain Inn, Wasatch Brew Pub, Single-family residential, vacation rentals 205 Main St. Town Homes
Reason for Review: Planning Commission review and recommendation to City Council

Proposal

The applicant is requesting a Subdivision for the purpose of combining all property including: PC-261-BX, PC-263-X, PC-264-X, PC-264-IX, PC-564-X, PC-564-X, PC-563-X, PC-563-AX, PC-566-X, PC-571-X, PC-572-B of Blocks 21 and 70 of the Park City Survey into Lot 1 and Parcel PC-272-B of Blocks 21 and 70 into Lot 2.

There is an existing non-historic commercial restaurant (the Wasatch Brew Pub) on the property and a parking lot that holds 52 parking spaces. The applicant wishes to combine the parcels and lots in order to create two platted lots of record, namely Lot 1 for a City owned Public Plaza and Lot 2 for the Wasatch Brew Pub. This subdivision plat also solidifies access easements for Lot 2 (The Wasatch Brew Pub). The subdivision will effectively clean up parcels, partial lots, City Right of Ways and provide appropriate access easements that will memorialize the area.

Purpose

The majority of the plat lies within the Historic Commercial Business (HCB) District while 2 current parcels and portions of the proposed Right of Way (ROW) lie within the Historic Residential 2 (HR-2) District.

The purpose of the Historic Commercial Business (HCB) District is to:

- (A) preserve the cultural heritage of the City's original Business, governmental and residential center,
- (B) allow the Use of land for retail, commercial, residential, recreational, and institutional purposes to enhance and foster the economic and cultural vitality of the City,
- (C) facilitate the continuation of the visual character, scale, and Streetscape of the original Park City Historical District,
- (D) encourage the preservation of Historic Structures within the district,
- (E) encourage pedestrian-oriented, pedestrian-scale Development,
- (F) minimize the impacts of new Development on parking constraints of Old Town,
- (G) minimize the impacts of commercial Uses and business activities including parking, Access, deliveries, service, mechanical equipment, and traffic, on surrounding residential neighborhoods,
- (H) minimize visual impacts of automobiles and parking on Historic Buildings and Streetscapes, and
- (I) support Development on Swede Alley which maintains existing parking and service/delivery operations while providing Areas for public plazas and spaces.
- (J) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

The purpose of the Historic Residential 2 (HR-2) District is to:

1. allow for adaptive reuse of Historic Structures by allowing commercial and office Uses in Historic Structures in the following Areas:
 - Upper Main Street;
 - Upper Swede Alley; and
 - Grant Avenue,
2. encourage and provide incentives for the preservation and renovation of Historic Structures,
3. establish a transition in Use and scale between the HCB, HR-1, and HR-2 Districts, by allowing Master Planned Developments in the HR-2, Subzone A,
4. encourage the preservation of Historic Structures and construction of historically Compatible additions and new construction that contributes to the unique character of the Historic District,
5. define Development parameters that are consistent with the General Plan policies for the Historic core that result in Development that is Compatible with Historic Structures and the Historic character of surrounding residential neighborhoods and consistent with the Design Guidelines for Park City's Historic Districts and Historic Sites and the HR-1 regulations for Lot size, coverage, and Building Height, and

6. provide opportunities for small scale, pedestrian oriented, incubator retail space in Historic Structures on Upper Main Street, Swede Alley, and Grant Avenue,
7. ensure improved livability of residential areas around the historic commercial core,
8. encourage and promote Development that supports and completes upper Park Avenue as a pedestrian friendly residential street in Use, scale, character and design that is Compatible with the historic character of the surrounding residential neighborhood,
9. encourage residential development that provides a range of housing opportunities consistent with the community's housing, transportation, and historic preservation objectives,
10. minimize visual impacts of the automobile and parking by encouraging alternative parking solutions,
11. minimize impacts of Commercial Uses on surrounding residential neighborhood.



Background

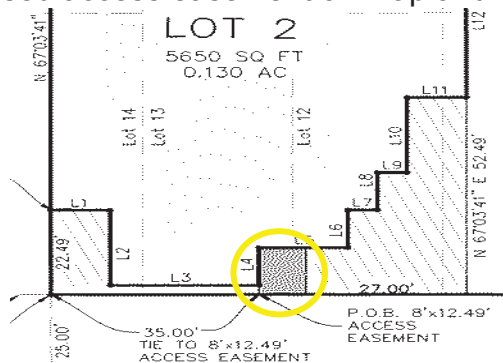
The plat application was submitted to the Planning Department on June 17, 2016. The application was deemed complete on July 27, 2016. The plat proposal encompasses an area that currently includes the Wasatch Brew Pub, portions of Grant (Swede) Avenue Right of Way and a parking lot holding 52 parking spaces. The original plat contained only Lot 1 however Lot 2 was added on September 20, 2016 in order to clear up access easements.

A project to revitalize the area on upper Main St. and create a public plaza has been under way for just over a year. Although the design is not final and no HDDR has been submitted, in order to develop this area a plat amendment is required.

Analysis

The plat includes three owners of record. A majority of the property is owned by Park City Municipal Corporation and the Main Street RDA. A portion is owned by Schirf Brewing Company. There is an existing 99 years lease with Schirf (began in 1988 - Exhibit C) for the decks over the property belonging to Redevelopment Agency of Park City.

Proposed Lot 2 (owned by Schirf Brewing Co), containing the Wasatch Brew Pub, currently is a land locked parcel which will require an access easement to a public street. Please see the yellow circle for location of proposed access easement on map and example below:



Prior to recording the plat, the applicant will also be required to resolve any encroachments that currently exist on the site.

This will include the following:

- The current outdoor deck Lease between RDA Park City and Schirf Brewing CO. This lease will be maintained for the entirety of the 99 year lease so long as the lease conditions are met (Expires in the year 2087).
- An access easement on the east and west side to connect Lot 2 to Main St. and Swede Alley.
- A five foot Public Utilities easement along street frontage of Lot 1.
- A Sewer easement with Snyderville basin to be located on Lot 1 behind Lot 2 on the northeast end of the proposed plat.
- An encroachment agreement between The Redevelopment Agency of Park City and Schirf Brewing Co to be located behind Lot 2 on the northeast end of the proposed plat, in order to memorialize Schirf Brewing Companies utility crossings and occupied uses on Lot 1.

Portions of the plat contain parts of existing built Grant (Swede) Avenue and 2nd Street. The portion of the parcels that includes the street will be dedicated as ROW during this plat. The street dedication shall be noted on the recorded plat.

Lot and Site Requirements

The proposed plat amendment does not change any of the following Lot and Site requirements for the HCB and HR-2 zones and these continue to apply to these sites.

Lot 1 is currently a parking lot and the Redevelopment Agency of Park City is reviewing plans to create a parking lot underneath a public plaza for the top of Main St. The conceptualization process is still underway and once the project has a clear direction an HDDR will be required and the Lot will be reviewed to comply with the Historic District Design Guidelines as well as the LMC zoning districts of HCB and HR-2.

Lot 2 is currently the Wasatch Brew Pub and there are no changes proposed. The project is completely within the HCB District and was approved in 1989 by the Planning Department and the HDC.

The development currently complies with:

- Setbacks (0' required in HCB)
- Height (30' at property line on Main following a 45 degree angle to a maximum height of 45' in HCB.)
- Minimum Lot Size (1,250 sf. in HCB)
- Minimum Lot Width (25')
- Floor Area Ratio (4.0 (67,420 sf.) within HCB (parking and driveways are not included in the FAR calculations).
- Parking has been assessed and fully paid per the Special Improvement District 1986 Parking Agreement (For HCB Non-Residential Uses must provide parking at the rate of six (6) spaces per 1,000 square feet of Building Area, not including bathrooms, and mechanical and storage spaces. For Restaurant and Standard Bar the parking requirement is 1 space for every 100 sf of net leasable Area, including kitchen Areas)

Lot 2 is currently landlocked and does not have ownership of access to an approved street. If this plat is approved, an access easement will be recorded allowing 250 Main access to Main St. and bringing the lot into compliance with 15-7.3-2 General Subdivision Requirements.

Good Cause

Planning Staff believes there is good cause for this application. Combining the parcels will allow the property owner to move forward with site improvements which include an outdoor plaza for public use on Lot 1. The plat is necessary in order for the applicants to utilize future plans, and if left un-platted, the property remains as is. Moreover, the plat amendment will resolve the necessity for existing streets to be properly dedicated as City Right of Way. Furthermore, the plat will allow for easements to be placed in areas that required further attention such as the access easement to Lot 2. The plat amendment will utilize best planning and design practices, while preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.

Staff finds that the plat will not cause undo harm on any adjacent property owner because the proposal meets the requirements of the Land Management Code (LMC)

and all future development will be reviewed for compliance with requisite Building Code, Historic District Design Guidelines and Land Management Code requirements. In approving the plat, the City will gain a developable area for future plans, dedicated Rights of Way and proper licensing agreements over City property. The applicants cannot move forward with construction until the plat amendment has been recorded.

Process

The approval of this plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18.

Department Review

This project has gone through an interdepartmental review. No additional issues were raised regarding the plat that have not been addressed by revisions and proposed conditions of approval.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was published in the Park Record on November 30, 2016.

Public Input

No public input has been received.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the Main Street Plaza Subdivision as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for the Main Street Plaza Subdivision and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on the Main Street Plaza Subdivision.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The proposed plat amendment would not be recorded and twelve (12) full and fragmented parcels would not be adjoined. Proposed Lot 2 would continue to be landlocked without an access easement from the public way to their property. Construction on proposed Lot 1 would not be permissible as it would encroach over property lines.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the Main Street Plaza Subdivision, and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance with Proposed Plat

Exhibit B – Existing Conditions

Exhibit C – Vicinity Map/Aerial Photograph

Exhibit D – Photos

Exhibit E – 99 Year Recorded Lease between Park City RDA and Schirf Brewing Co.

Exhibit A – Draft Ordinance with Proposed Plat

Ordinance 2017-

AN ORDINANCE APPROVING THE MAIN STREET PLAZA SUBDIVISION LOCATED AT 220 & 250 MAIN STREET, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 220 and 250 Main Street, have petitioned the City Council for approval of the plat known as Main Street Plaza Subdivision; and

WHEREAS, on November 22, 2016 the property was properly noticed and posted to owners within 300 feet according to the requirements of the Land Management Code; and

WHEREAS, on November 26, 2016 notice of the public hearing was published in the Park Record and on the Utah Public Notice Website; and

WHEREAS, the Planning Commission held a public hearing on December 14, 2016 to receive input on the proposed subdivision; and

WHEREAS, on December 14, 2016 the Planning Commission forwarded a _____ recommendation to the City Council; and,

WHEREAS, on January 5, 2017 the City Council held a public hearing on the proposed subdivision; and

WHEREAS, there is good cause and it is in the best interest of Park City, Utah to approve the proposed Main Street Plaza Subdivision plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Main Street Plaza Subdivision as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 250 and 220 Main Street within the Historic Commercial Business (HCB) and Historic Residential (HR-2) Zoning Districts.
2. The application was deemed complete on July 27, 2016.
3. The majority of the plat lies within the Historic Commercial Business (HCB) District while 2 current parcels and portions of the proposed Right of Way (ROW) lie within the Historic Residential 2 (HR-2) District.
4. The applicants are requesting to combine portions of eleven (11) Old Town parcels PC-261-BX, PC-263-X, PC-264-X, PC-264-IX, PC-564-X, PC-564-X, PC-

- 563-X, PC-563-AX, PC-566-X, PC-571-X, PC-572-B of Blocks 21 and 70 of the Park City Survey into Lot 1 and Parcel PC-272-B of Blocks 21 and 70 into Lot 2.
5. Portions of the plat contain parts of existing built Grant (Swede) Avenue and 2nd Street. The portion of the parcels that includes the street will be dedicated as ROW during this plat. The street dedication shall be noted on the recorded plat.
 6. The plat includes three owners of record. A majority of the property is owned by Park City Municipal Corporation and the Main Street RDA. A portion is owned by Schirf Brewing Company.
 7. There is an existing non-historic commercial restaurant (the Wasatch Brew Pub) on the property on 250 Main St. and a parking lot that holds 52 parking spaces at 220 Main St.
 8. The plat amendment is necessary in order for the Redevelopment Agency of Park City to move forward with an HDDR for the purpose of designing a public plaza.
 9. Lot 1 has no current application in with the Planning Department for development.
 10. The conceptualization process for Lot 1 is still underway and once the project has a clear direction an HDDR will be required and the Lot will be reviewed to comply with the Historic District Design Guidelines as well as the LMC zoning districts of HCB and HR-2.
 11. The plat will create Lot 1 with 24,751 square feet of lot area and Lot 2 with 5,650 square feet of lot area.
 12. The existing building on Lot 2 is a non-historic structure and has a footprint of 5,650 square feet.
 13. There is an existing 99 years lease with Schirf (began in 1988 - Exhibit C) for the decks over the property belonging to Redevelopment Agency of Park City.
 14. Proposed Lot 2 (owned by Schirf Brewing Co), containing the Wasatch Brew Pub, currently is a land locked parcel which will require an access easement to a public street.
 15. Lot 2 (the Wasatch Brew Pub) is not proposing any changes to the building at this time.
 16. 250 Main Street (the Wasatch Brew Pub) was approved in 1989 by the Planning Department and HDC.
 17. Any proposed construction on either lots will require a review under the adopted 2009 Design Guidelines for Historic Districts and Historic Sites through the HDDR process, as well as compliance with the Building Code and Land Management requirements.
 18. Prior to plat recordation, the applicants will be required to resolve any encroachments or easements that will be required on the site.
This will include the following:
 - The current outdoor deck Lease between RDA Park City and Schirf Brewing CO. This lease will be maintained for the entirety of the 99 year lease so long as the lease conditions are met (Expires in the year 2087).
 - An access easement on the east and west side to connect Lot 2 to Main St. and Swede Alley.
 - A five foot Public Utilities easement along street frontage of Lot 1.

- A Sewer easement with Snyderville basin to be located on Lot 1 behind Lot 2 on the northeast end of the proposed plat.
- An encroachment agreement between The Redevelopment Agency of Park City and Schirf Brewing Co to be located behind Lot 2 on the northeast end of the proposed plat, in order to memorialize Schirf Brewing Companies utility crossings and occupied uses on Lot 1.

19. The portion of the parcels that includes the street will be dedicated as ROW.

Conclusions of Law:

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. No building permit for any work that crosses property lines, or that would first require the approval of an HDDR, shall be granted until the plat amendment is recorded with the Summit County Recorder's office.
4. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final Mylar prior to recordation.
5. One (1) five foot (5') wide public utilities easement is required along the street frontage of Lot 1. Public snow storage easements?
6. The applicant shall dedicate the portion of property that includes built Grant (Swede) Avenue and 2nd Street as Right of Way.
7. Prior to plat recordation, the applicants will be required to resolve any encroachments or easements that will be required on the site.

This will include the following:

- The current outdoor deck Lease between RDA Park City and Schirf Brewing CO. This lease will be maintained for the entirety of the 99 year lease so long as the lease conditions are met (Expires in the year 2087).
- An access easement on the east and west side to connect Lot 2 to Main St. and Swede Alley.
- A five foot Public Utilities easement along street frontage of Lot 1.

- A Sewer easement with Snyderville basin to be located on Lot 1 behind Lot 2 on the northeast end of the proposed plat.
 - An encroachment agreement between The Redevelopment Agency of Park City and Schirf Brewing Co to be located behind Lot 2 on the northeast end of the proposed plat, in order to memorialize Schirf Brewing Companies utility crossings and occupied uses on Lot 1.
8. The portion of the parcels that includes the street will be dedicated as ROW.
 9. All future development will be reviewed for compliance with requisite Building Code, Historic District Design Guidelines and Land Management Code requirements.
 10. Above ground utility infrastructure shall be located on the property and shall not be allowed in the ROW.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ____ day of January, 2017.

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, MAYOR

ATTEST:

City Recorder, Michelle Kellogg

APPROVED AS TO FORM:

Mark Harrington, City Attorney

SURVEYOR'S CERTIFICATE

I, Robert J. McMahon, do hereby certify that I am a registered land surveyor and that I hold certification No. 349981-2201 as prescribed under the laws of the State of Utah. I further certify that a topographic survey has been made of the lands shown and described herein. I further certify that this survey is a correct representation of the lands shown at the time the field work was completed.



LEGAL DESCRIPTION

PARCEL 1

Beginning at the intersection of Sixth and Main Street, The Northwest corner of the unplatted portion of Block 20, Amended Plat of the Park City Survey, thence North 21°33' East 25 feet; thence thence North 66°22' East 75 feet more or less to the Stoll House; thence North 21°33' East 25 feet thence South 66°22' West 75 feet to the place of beginning according to the Amended Plat of the Park City Survey of record in the office of the Recorder, County of Salt Lake, State of Utah.

Summit County Tax Serial Number: PC-261-B-X

Those portions of Sixth Street according to the Amended Plat of Park City, lying immediately adjacent to Blocks 20 & 21 of the Amended Plat of the Park City Survey, and Block 70 of the Millsite Reservation to the Park City Survey.

Summit County Tax Serial Number: None Assigned

PARCEL 3 All of lots 1 through 14, inclusive, Block 21 Amended Plat of the Park City Survey according to the official Plat thereof, on file and of record in the office of the Recorder, Summit County, Utah.

PARCEL 4

Summit County Tax Serial Numbers: PC-564-X, PC-563-X and PC-563-A-X

DIFFERENTIAL FROM THE ABOVE DESCRIBED MODELS 7 AND 8 (see middle column with the corresponding density function estimates) is that, by the use of the two

RECEIVING FROM the above described Parcels 3 and 4, any portion lying within the following:

Exception: Parcel 1, 260 Main Street Subdivision according to the official Plat thereof recorded July 31, 2007 as Entry No. 320990 of the official records in the Office of the Summit County Recorder.

Exception Parcel 2

Beginning at a point South 233°00' East 9.72 feet and North 66°39'00" East 22.48 feet from the Northwest corner of Lot 14, Block 2, City Survey, and running thence 66°29'00" East 75.00 feet; thence South 233°00' East 10.00 feet; thence North 66°39'00" East 22.48 feet; thence South 233°00' West 20.00 feet; thence North 66°39'00" East 15.00 feet; thence South 66°29'00" West 20.00 feet; thence North 66°39'00" East 10.00 feet; thence South 66°29'00" West 20.00 feet; thence North 66°39'00" East 10.00 feet; thence South 66°29'00" West 5.00 feet; thence North 66°39'00" East 10.00 feet; thence South 66°29'00" West 10.00 feet; thence North 66°39'00" East 15.00 feet; thence South 66°29'00" West 10.00 feet; thence North 66°39'00" East 20.00 feet; thence North 23°00'00" East 10.00 feet to the point of beginning.

NARRATIVE:

- 7) The purpose of this survey is to establish the existing conditions on the subject parcels.
- 8) Property corners were not set as part of this topographic survey.
- 9) The Ball's of Boring of this survey are found survey monuments as shown on the Park City Monument Control Map on file and of record as Entry No. 724721 in the Office of the Recorder, Summit County, Utah.
- 10) Project Benchmark: Center of the cover of the SWMO Sanitary Sewer Manhole as shown.
- 11) Date of field survey: Nov. 21, 2014, March 21, 2015
- 12) Data File Survey prepared by High Country Title, File No. 25721 Prepared March 23, 2015 for Legal Purposes of Survey.
- 13) The architect/ owner is responsible for verifying building setbacks, zoning requirements, and building heights.
- 14) The owner is responsible to be aware of any items that affect the subject property that may not be shown on this insurance report. No obvious encroachments of easements, encroachments or encroachances

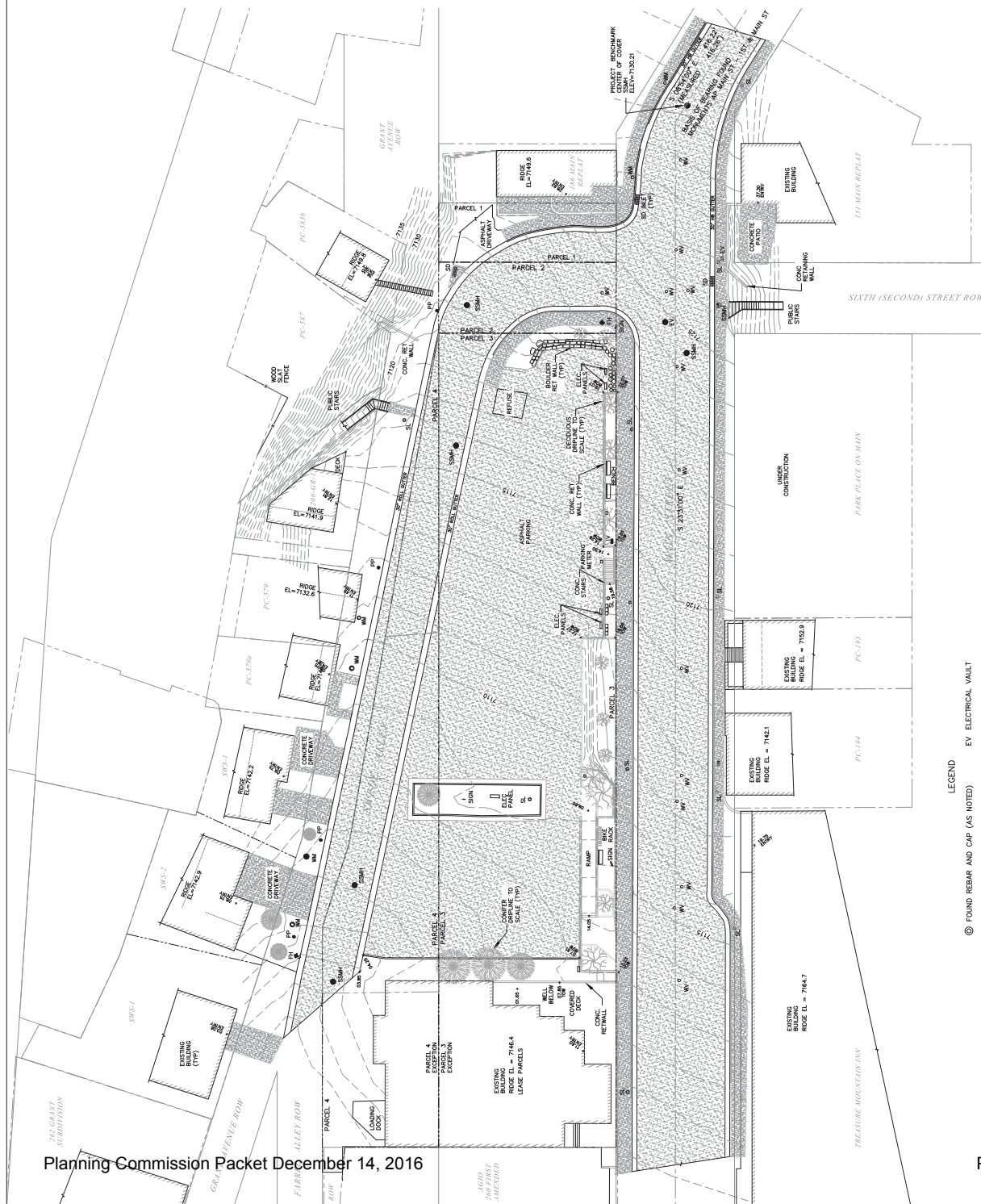
BREW PUB PARCEL
EXISTING CONDITIONS & TOPOGRAPHIC SURVEY

FOR: Park City Municipal Corp.

JOB NO: 03-15-01



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FOR

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|-----|--------------------------------|
| EV | ELECTRICAL VAULT |
| IV | IRRIGATION VAULT |
| WM | WATER METER |
| SL | STREET LAMP |
| PP | POWER POLE |
| © | FOUND REBAR AND CAP (AS NOTED) |
| WV | WATER VALVE |
| FH | FIRE HYDRANT |
| SMH | SANITARY SEWER MANHOLE |

Planning Commission Packet December 14, 2016

I, Robert J. Menden, do hereby certify that I am a registered land surveyor and that I find and certify No. 310001-270 as appearing upon the map of the State of Utah. I further certify that a homologous survey has been made of the lands shown and described herein. I further certify that this survey is a correct representation of the lands shown at the time the field work was completed.



PARCEL 1
beginning at the intersection of Main and Main Street, the northwest corner of the corporate portion of Block 20 of the Amended Plat of the City Survey, thence South 71°33' East 95 feet, thence South 66°52' East 75 feet to the corner or back to the City Survey, thence North 21°32' East 25 feet, thence South 68°22' East 75 feet to the place of beginning according to the Amended Plat of the City Survey of record in the office of the Registrar, Carroll County, Ohio.

Seismic County Tax Serial Number: 00-001-000-0

PAYCEL 2
These portions of Main Street abutting to the American Plot at New City, being immediately adjacent to Blocks 20 & 21 of the American Plot of the Park City Survey, and Block 75 of the Minute Reservation to the Park City

Summit County Tax Serial Number: None Assigned

PART 3
All of lots 1 through 14, inclusive, Block 24 American Flat of the Fort City Survey according to the official Plat thereof, as the same are shown in the office of the Recorder, Summit County, Utah.

Summit County Tax Sales Numbers: PI-163=8, PI-164=1=8, PI-166=8, PI-271=8 and PI-284=8

PART 4

All of Lots 1 through 14, Inglewood, Block 70 Millie Reservation in the Park City Survey according to the official plat thereof, on the roll of land in the office of the Recorder, Summit County, Utah.

Summit County Tax Relief Numbers: PC-1613-X and PC-1613-A-X

It is not known if a high or even a low level of a community's crime and justice services is sufficient to ensure that a high or even a low level of community well-being is achieved and a high or even a low level of community well-being is achieved.

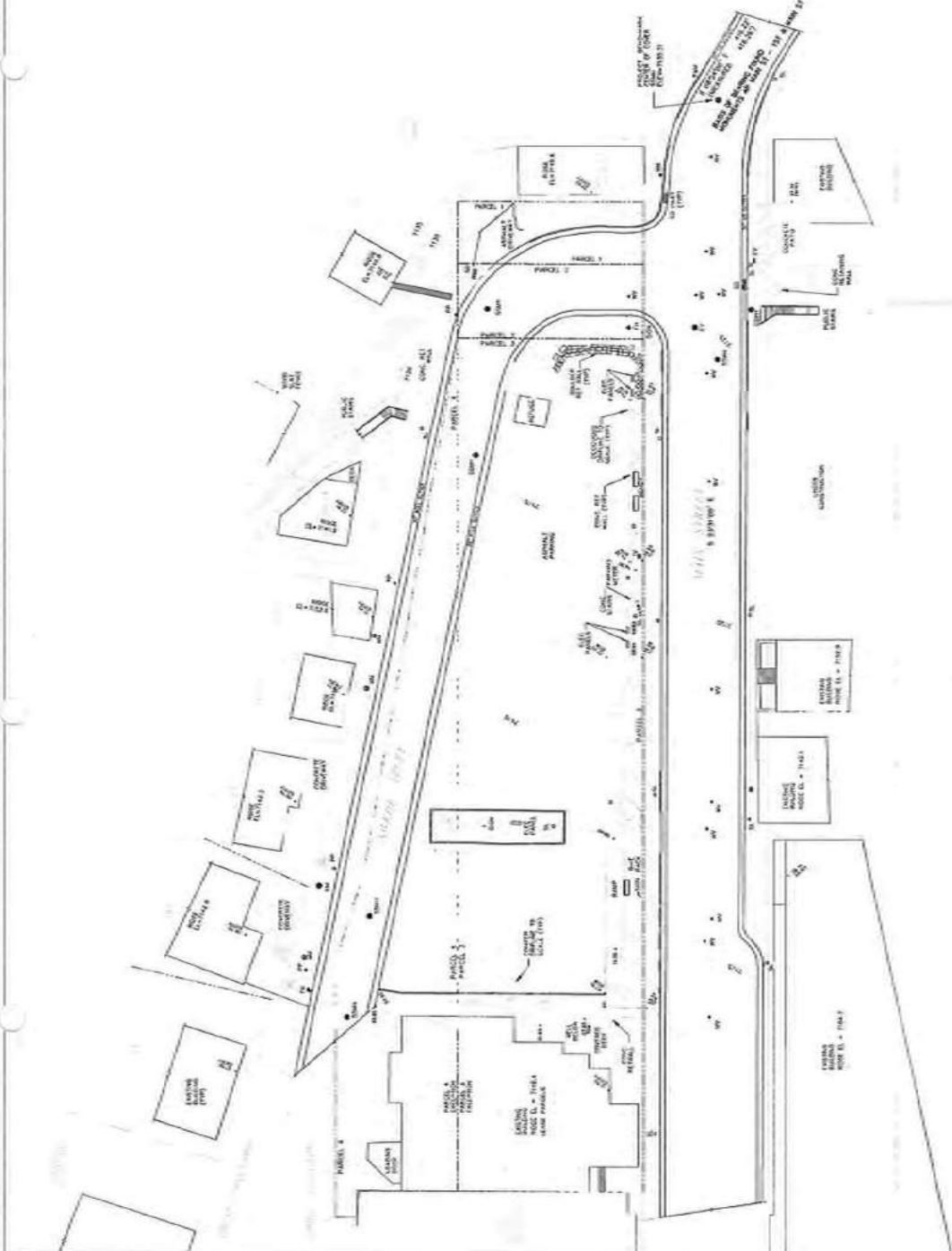
Orientation: Parallel 3

Lot 1, 260 Main Street Subdivision according to the official Plat instrument recorded July 31, 2007 on entry No. 220863 of the official records in the Office of the Surmoll County Recorder.

Excursion Point 2

[illegible]

- 1) The purpose of this survey is to establish the existing conditions on the subject parcel's
- 2) Property, culture etc not set out as part of this topographic survey.
- 3) The above is done on the basis of the survey data submitted as shown on the New York City Department of City Planning map on file and issued as Entry No. 724221 in the Office of the Registrar, New York County Clerk's Office.
- 4) Project Description: Center of the street at the 200th Birthday Street intersection on Hudson.
- 5) Date of Survey: June 25, 2020, between 8:30 - 9:30.
- 6) Survey of property required by County law, (see New York State Department of City Planning Survey of Property).
- 7) The architect/engineer is responsible for verifying building setbacks, zoning requirements, and building height.
- 8) The owner is responsible to be aware of any laws that affect the subject property that may not be shown on the map. The owner is responsible for obtaining all necessary documents and information on the subject parcel were being except as shown herein.



LEGEND

(C) FOUND REBAR AND CAP (AS NOTED)	EV ELECTRICAL VALVE
NV WATER VALVE	IV IRRIGATION VALVE
F11 FIRE HYDRANT	WV WATER METER
SS SANITARY SINKS MANHOLE	SL STREET LAMP
	PS POWER POLE

BREW PUJI PARCEL
EXISTING CONDITIONS & TOPOGRAPHIC SURVEY

FROM: Park City Municipal Corp.

JUNE NO. 03-15-01

JUN 17 2016

ALTA ENGINEERING INC.
 10000 160th Ave. S.W., Suite 100, Richmond, BC V6V 2G9, Canada
 Tel: (604) 273-8888 Fax: (604) 273-8889
 E-mail: info@altaeng.com Web: www.altaeng.com

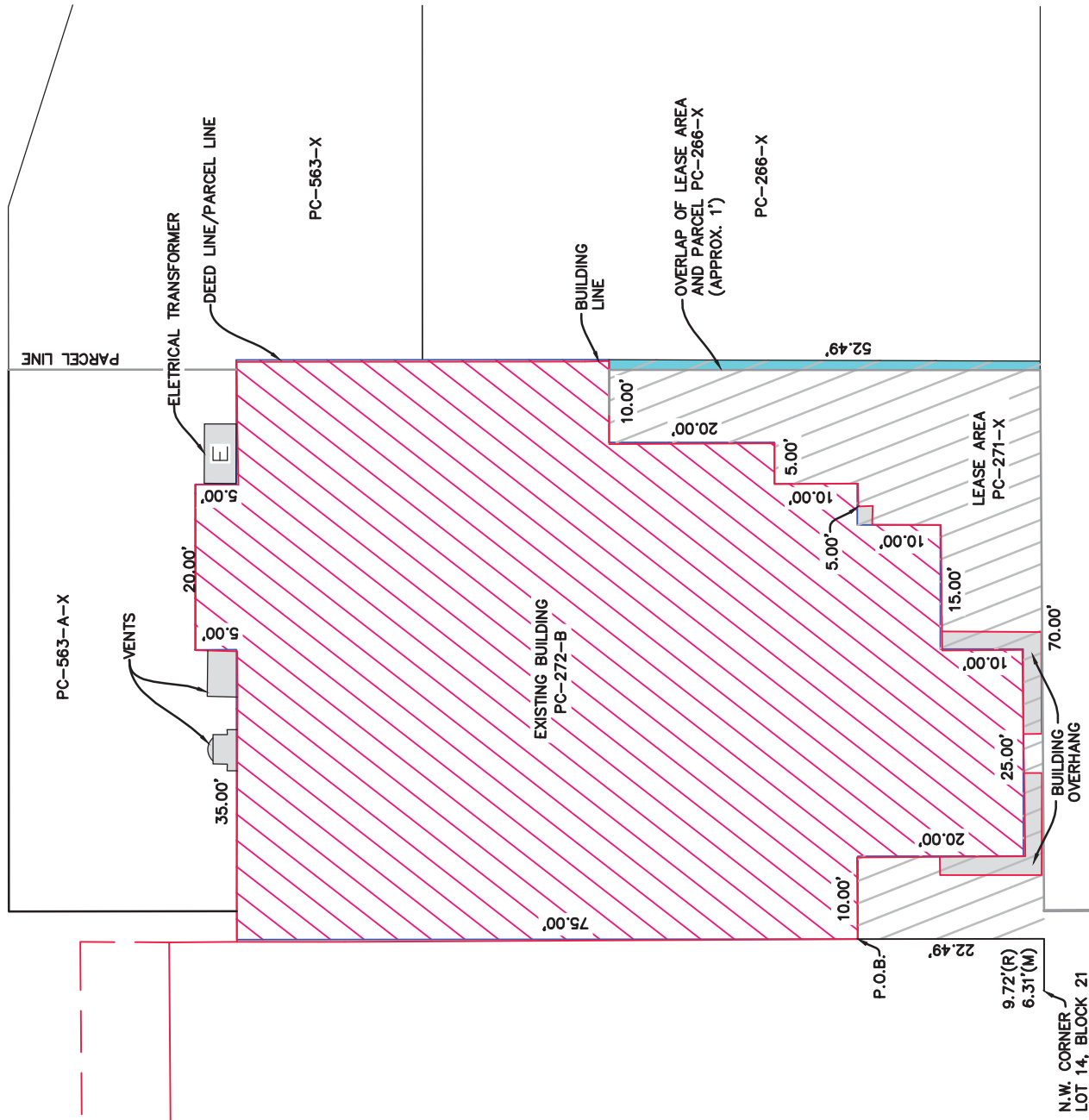


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|--------|---|---------------------------|
| LEGEND |  | STREET MONUMENT FOUND |
| |  | STREET MONUMENT NOT FOUND |
| | (M) | MEASURED DISTANCE |
| | (R) | RECORD DISTANCE |
| | (CALC) | CALCULATED DISTANCE |
| | PARCEL BOUNDARY LINE | |
| | CENTERLINE | |
| | BLOCK LOT LINE | |
| |  | EXISTING BUILDING |
| |  | EXISTING CONCRETE |
| |  | EXISTING ASPHALT |

SURVEY NARRATIVE

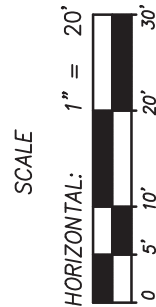
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RICHARD W. MILLER LS 155641 (UTAH)



LEGEND:

- DEED/PARCEL BOUNDARY LINE
- EXISTING BUILDING LINE
- (R) RECORD DISTANCE
- (M) MEASURED DISTANCE
- LEASE AREA
- EXISTING BUILDING
- EXISTING BUILDING OVERLAP



N|V|S

5217 SOUTH STATE STREET, SUITE 200
801.743.1300 TEL 801.743.0300 FAX

MURRAY, UT 84107
WWW.NVS.COM

DATE: 2016-06-07	TIME: 6:17:46 PM
NETWORK: NONE	
PATH: N:\224015-00034\CADD\SURVE\MAPS	
DWG NAME: SY02 WASATCH BREW PUB.DWG	
LAYOUT: Layout1	
DESIGNER: TD	MGR: RC

**WASATCH BREW PUB
LEASE AGREEMENT EXHIBIT
PARK CITY, SUMMIT COUNTY, UTAH**

PREPARED FOR: PARK CITY MUNICIPAL CORP. DATE SUBMITTED: 2016-06-07

SHEET NUMBER	1
OF	1 SHEETS
JOB NUMBER	2240-15-00034

0 70 140 210 280 350 Feet

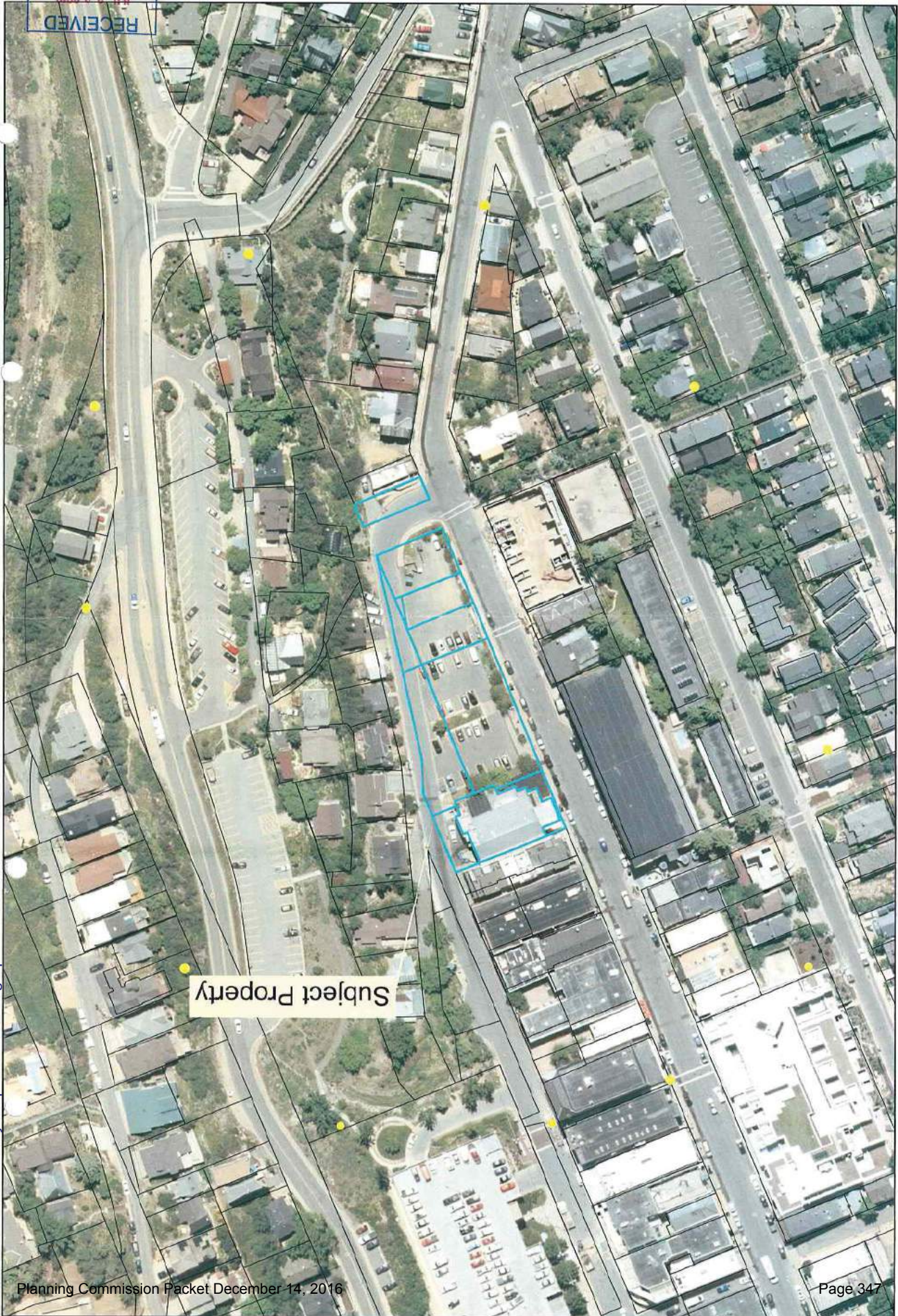
1 in = 91 ft



PARK CITY PLANNING DEPT.

JUL 2 2016

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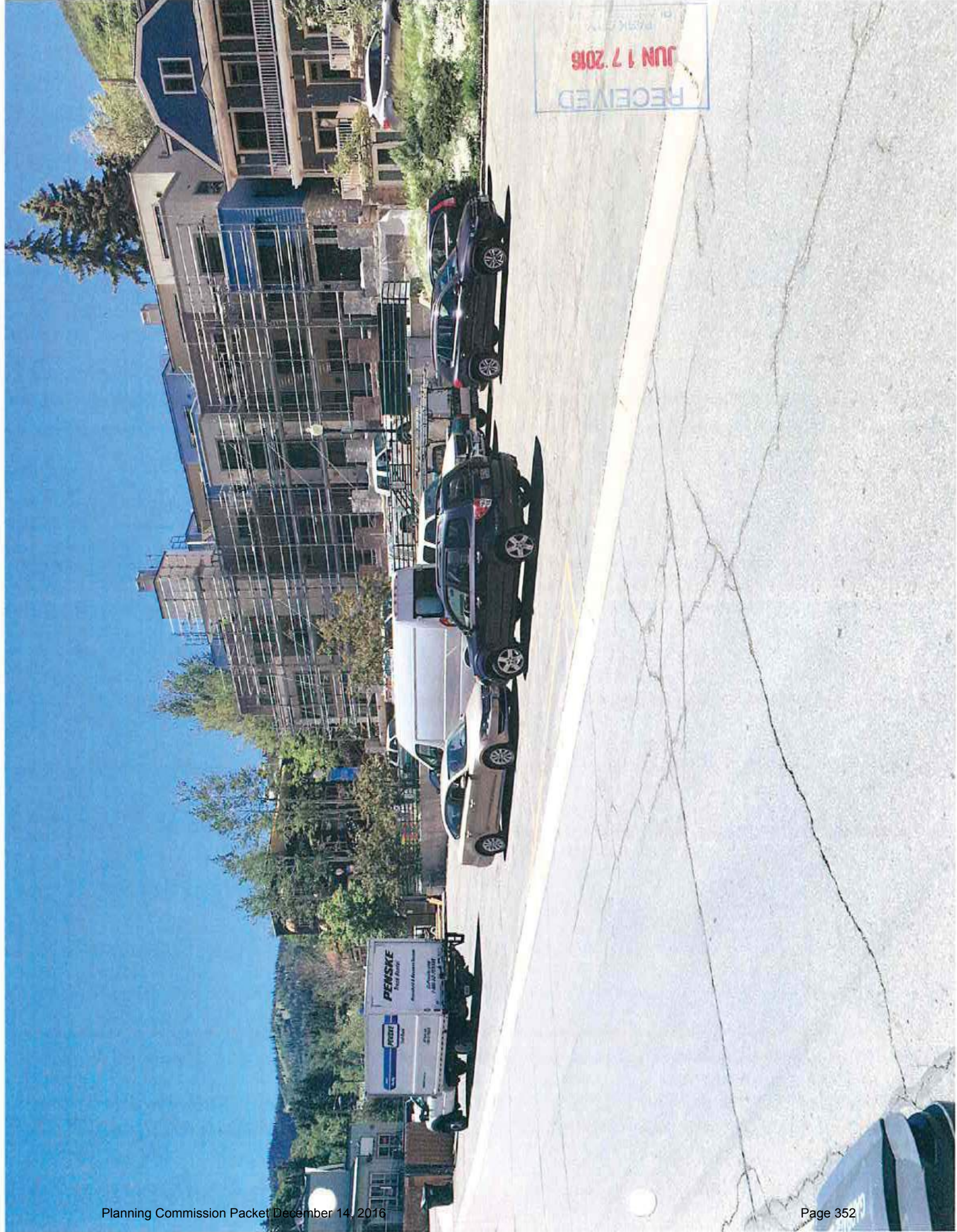


Subject Property



JUN 17 2019



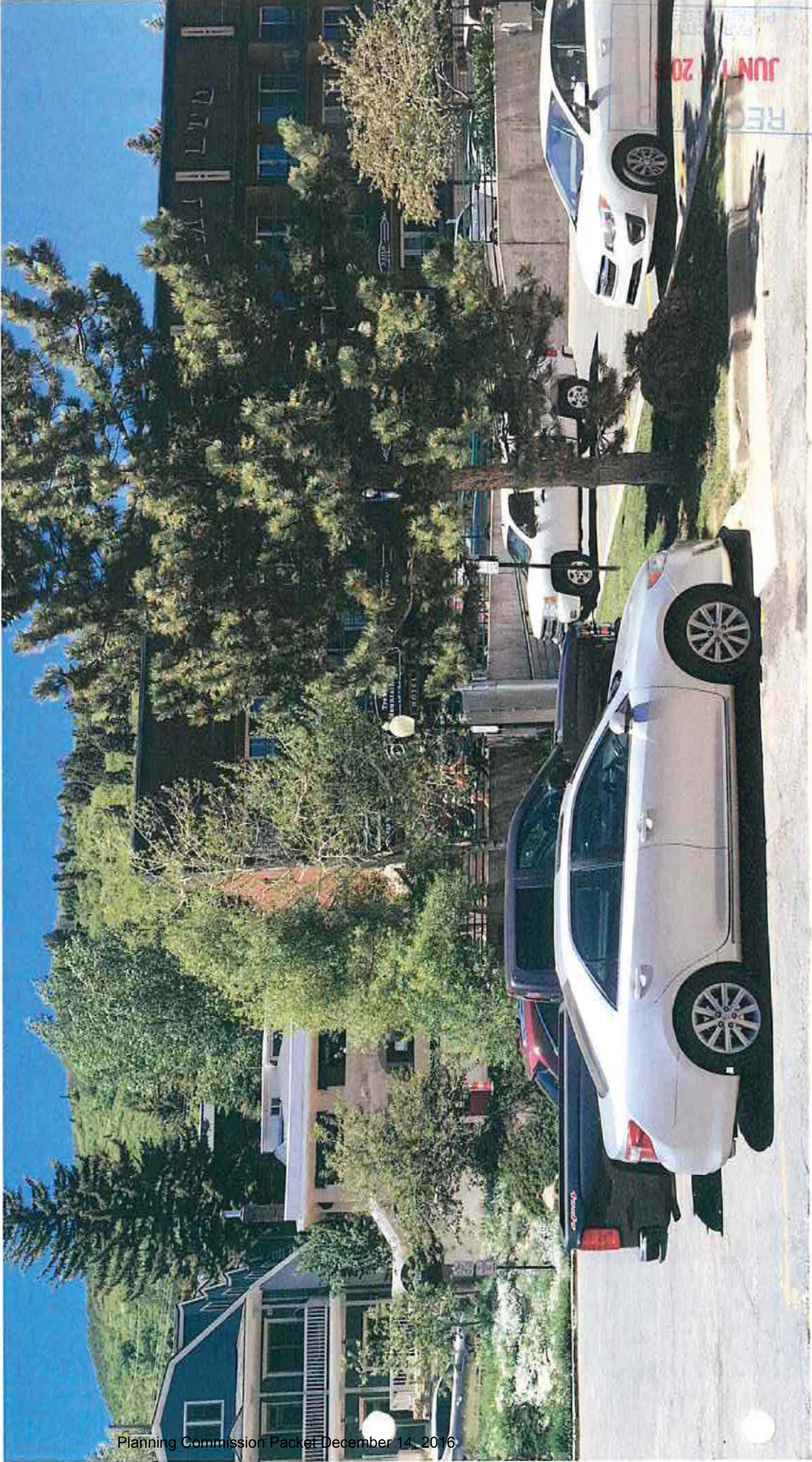


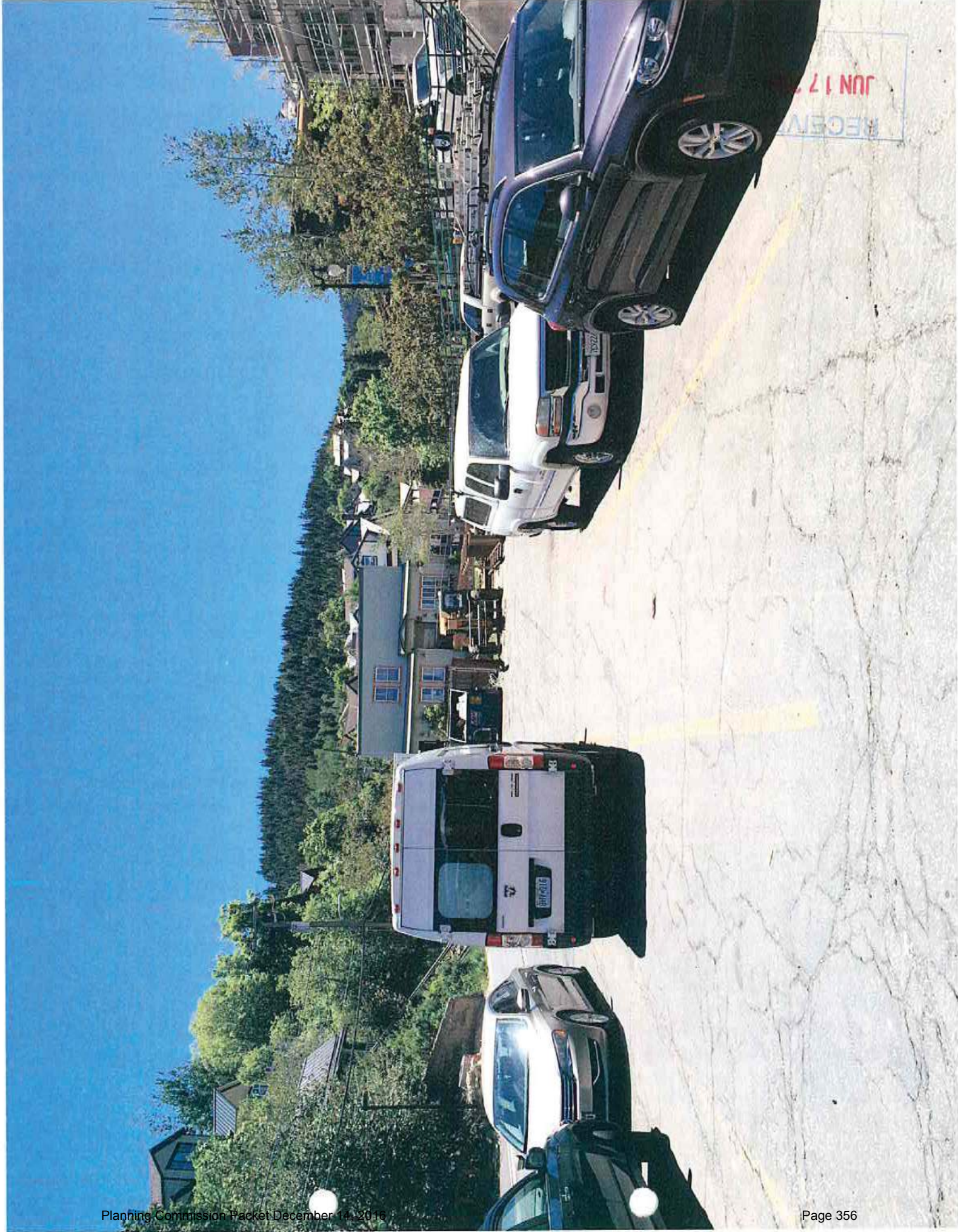
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PARK CITY



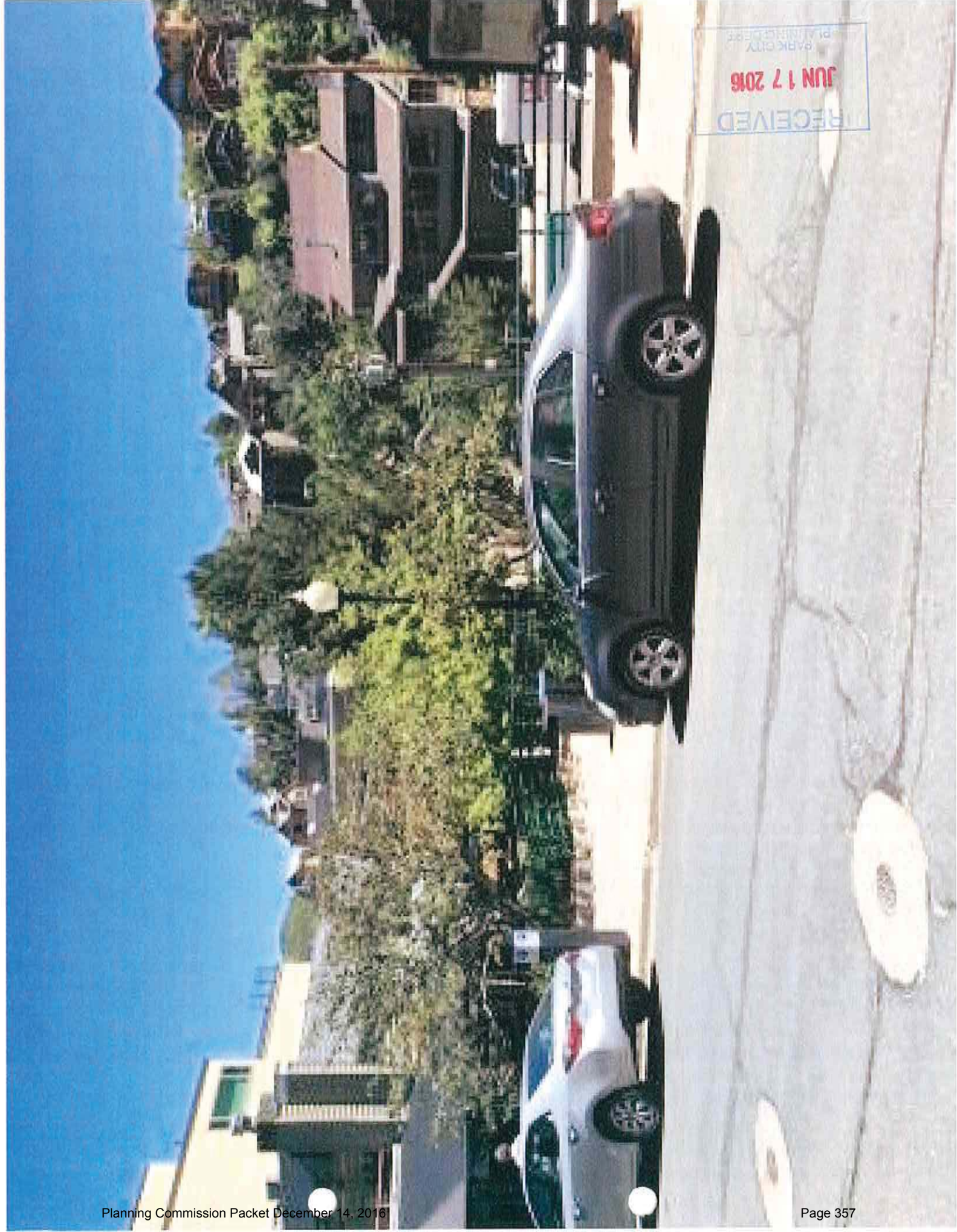
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PARK CITY
PLANNING DEPT







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PARK CITY
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PARK CITY
PLANNING DEPT.

RECEIVED
JUN 17 2016
CITY OF PARK CITY

Recorded at the request of and return
to: Park City Municipal Corp.
P. O. Box 1480, Park City, UT 84060

299068

WESTERN STATES TITLE

Exhibit E - 99 Year Lease between Park City RDA and Shurf Brewing Co. 88 OCT 20 PM 12:28

**SCHIRF BREWING COMPANY
LEASE AGREEMENT**

ALAN S. 1988
SUMMIT COUNTY RECORDER
B.H. 14.

THIS AGREEMENT is made by and between the REDEVELOPMENT AGENCY OF PARK CITY (herein "RDA") and SCHIRF BREWING COMPANY (herein "Schirf") to set forth the terms and conditions under which Schirf will lease certain property owned by RDA in Park City, Utah. The parties agree as follows:

1. Property. RDA hereby lets and leases to Schirf the property described as Parcel B in Attachment 1 hereto (herein "Leased Property") for the purposes set forth in this Lease Agreement. Schirf proposes to construct and operate a "Brewpub" on Parcel A described in Attachment 1 hereto, and proposes to conduct Brewpub operations on the adjacent leased property pursuant to the terms of this Agreement.

2. Term. The lease shall have a term of ninety-nine (99) years from the date hereof unless sooner terminated as provided herein.

3. Rent. The base rent for the space shall be One Dollar (\$1.00) per year payable at execution of this Lease Agreement.

4. Commencement Date. This Lease shall commence on October 14, 1988, and the term of the Lease shall begin on that date.

800-497-740-747

5. Tenant Improvements and Occupancy. Schirf agrees to construct and maintain, at its own expense, an open deck or decks on the leased property at the same grade as Park City's Main Street. Schirf may place tables, chairs, umbrellas and other amenities on the deck areas and may utilize the deck areas for the conduct of restaurant and nightclub operations. The deck areas shall remain open to public access and shall not be covered, enclosed or fenced except to the extent necessary to comply with applicable building, safety and licensing laws and regulations. Schirf shall be solely responsible to maintain the decks in an attractive, safe state of repair. At the termination of the Lease, the improvements shall become the property of the RDA with the exception of trade fixtures such as tables, chairs and similar items commonly used and removed in the restaurant and nightclub business.

6. Liens. Schirf shall not permit any liens to attach to the property for work done at Schirf's request or for Schirf's benefit. If RDA receives notice of any such lien against the property, Schirf shall promptly discharge the lien at RDA's request, or post funds sufficient to satisfy the lien during any period of good faith contest by Schirf. In the event RDA feels its title to the property is in jeopardy because of any lien Schirf has elected to attach to the property, RDA may discharge the lien and collect the amount paid from Schirf. Schirf agrees to pay all reasonable costs incurred by RDA in the defense or discharge of any

Schirf.rnt

800- 497 PAGE 741 2

liens on the property.

7. Insurance. RDA does not have, and is not obligated to provide insurance that would protect Schirf against public liability from injuries to patrons on the Leased Property. Schirf shall, at Schirf's expense, carry a policy of general liability insurance in an amount of at least Three Hundred Thousand Dollars (\$300,000) per person and Five Hundred Thousand Dollars (\$500,000) per incident or occurrence for the Leased Property. Such insurance may be a part of Schirf's general liability coverage for its Brewpub operations. RDA shall be named as an additional insured on the policy as to the Leased Property. A certificate of insurance with a thirty (30) day cancellation notice provision shall be provided to RDA on or before occupancy of the Leased Property and maintained continuously during the term of the Lease. Schirf may carry whatever contents insurance and other insurance Schirf deems appropriate.

8. Assignment/Subleases. This Lease may not be assigned or the premises sublet without the advance written consent of the RDA. RDA's consent to assignment or sublease will be granted on the basis of the financial reliability of the assignee or sublessee and the business to be operated on the Leased Property by the assignee or sublessee in order to insure a tenant that is compatible with the historic nature of Main Street and the public ownership of the Leased Property. RDA's consent will not be unreasonably withheld.

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3

BOOK 497 PAGE 742

9. Remedies. In the event Schirf breaches any term or condition of this Lease Agreement, RDA shall have the right to exercise the following remedies, and any other remedies available at law or in equity:

- (a) RDA may, by written notice to Schirf, demand that Schirf remedy the breach complained of within fourteen (14) days, or quit the premises within twenty (20) days;
- (b) In the event the breach relates to failure to maintain improvements upon the Leased Property, RDA may enter the property after five (5) day's notice to Schirf and perform such repair or maintenance as it deems necessary and may collect from Schirf the cost of such repair and/or maintenance.

In addition, in the event that Schirf is in violation of some provision of this Lease, RDA shall be entitled to maintain a judicial action for specific performance or injunctive relief, after giving Schirf thirty (30) days written notice to cure the violation or breach of performance. If the breach continues after the expiration of the thirty (30) day notice period, RDA may exercise any and all remedies available at law or equity, including re-entry and taking possession of the premises, or re-letting the premises.

10. Attorney's Fees and Costs. If either party finds it necessary to retain counsel to enforce any provision of this Agreement, the prevailing party shall be liable to the other for

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800- 497-743 4

all costs and expenses of litigation, negotiation, and settlement, including court costs, if any, and reasonable attorney's fees.

11. Surrender of Premises. Schirf agrees to surrender the Leased Property at the expiration or sooner termination of this Agreement or any extension thereof in the same condition or as altered pursuant to the provisions of this Agreement. Ordinary wear, tear and damage by the elements or other acts of God excepted.

12. Non-discrimination. Schirf agrees not to discriminate against anyone on the basis of race, color, national origin, age, sex or handicap in its hiring practices or operation of its business or use of Leased Property.

13. Waiver of Covenants. It is agreed that the waiver of any of the covenants of this Lease Agreement by either party shall be limited to the particular instance and shall not be deemed to waive any other breaches of such covenant or any provisions herein contained.

14. Force Majeure. Any failure on the part of either party to this Lease to perform any obligation hereunder and any delay in doing any act required hereby shall be excused if such failure or delay is caused by any strike, lockout, governmental restriction or act of God, or any similar cause beyond the control of the parties so failing to perform.

15. Time. Time is of the essence of this Lease and every term, covenant, and condition herein contained.

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800 497 PAGE 744 5

16. Paragraph Headings. The paragraph headings as to the contents of particular paragraphs herein are inset only for convenience and are in no way to be construed as part of such paragraphs or as a limitation in the scope of the particular paragraph to which they refer.

17. Amendment. This Lease Agreement cannot be altered except by written instrument, signed by both parties.

DATED this 17 day of October, 1988.

REDEVELOPMENT AGENCY OF PARK CITY

Hal W. Taylor
Hal W. Taylor, Chairman

Attest:

Jan Scott Freeman
Jan Scott Freeman, Secretary

APRIL 20
1978

SCHIRF BREWING COMPANY

Greg Schirf
Greg Schirf, President

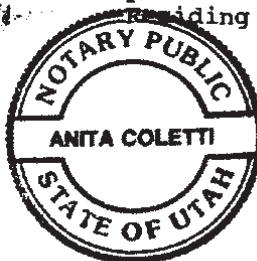
STATE OF UTAH)
COUNTY OF SUMMIT)

The foregoing Lease Agreement was acknowledged before me this 17th day of October, 1988, by Hal W. Taylor, Chairman of the Redevelopment Agency of Park City, Utah.

My commission expires: 9/1/91

Anita Coletti
Notary Public

Residing at: Park City, Utah



Schirf.rnt

800- 497 PAGE 745

6

STATE OF UTAH)
)
COUNTY OF SUMMIT)

SS

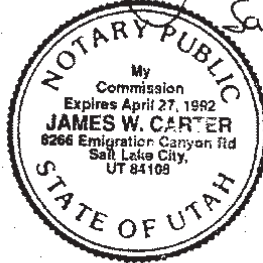
The foregoing Lease Agreement was acknowledged before me
this 19th day of October, 1988, by Greg Schirf, President of
Schirf Brewing Company.

My commission expires:

4/27/92

James W. Carter
Notary Public
Residing at:

Salt Lake City



BOOK 497 PAGE 746

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7

ATTACHMENT 1

to the
Schirf Brewing Company
Lease Agreement

PARCEL A

BEGINNING AT A POINT S 23°31'00" E 9.72 FEET AND N 66°29'00" E 22.49 FEET FROM THE NORTHWEST CORNER OF LOT 14 BLOCK 21, PARK CITY SURVEY; AND RUNNING THENCE 66°29'00" E 75.00 FEET; THENCE S 23°31'00" E 35.00 FEET; THENCE N 66°29'00" E 5.00 FEET; THENCE S 23°31'00" E 20.00 FEET; THENCE S 66°29'00" W 5.00 FEET; THENCE S 23°31'00" E 15.00 FEET; THENCE S 66°29'00" W 45.00 FEET; THENCE N 23°31'00" W 10.00 FEET; THENCE S 66°29'00" W 20.00 FEET; THENCE N 23°31'00" W 5.00 FEET; THENCE S 66°29'00" W 10.00 FEET; THENCE N 23°31'00" W 5.00 FEET; THENCE S 66°29'00" W 10.00 FEET; THENCE N 23°31'00" W 15.00 FEET; THENCE S 66°29'00" W 10.00 FEET; THENCE N 23°31'00" W 25.00 FEET; THENCE N 66°29'00" E 20.00 FEET; THENCE N 23°31'00" W 10.00 FEET TO THE POINT OF BEGINNING. CONTAINS 5650 SQUARE FEET

PARCEL B

BEGINNING AT A POINT S 23°31'00" E 9.72 FEET FROM THE NORTHWEST CORNER OF LOT 14 BLOCK 21, PARK CITY SURVEY; AND RUNNING THENCE N 66°29'00" E 22.49 FEET; THENCE S 23°31'00" E 10.00 FEET; THENCE S 66°29'00" W 20.00 FEET; THENCE S 23°31'00" E 25.00 FEET; THENCE N 66°29'00" E 10.00 FEET; THENCE S 23°31'00" E 15.00 FEET; THENCE N 66°29'00" E 10.00 FEET; THENCE S 23°31'00" E 5.00 FEET; THENCE N 66°29'00" E 10.00 FEET; THENCE S 23°31'00" E 5.00 FEET; THENCE N 66°29'00" E 20.00 FEET; THENCE S 23°31'00" E 10.00 FEET; THENCE S 66°29'00" W 52.49 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF MAIN STREET; THENCE ALONG SAID RIGHT-OF-WAY LINE N 23°31'00" W 70.00 FEET TO THE POINT OF BEGINNING. CONTAINS 1174.4 SQUARE FEET
agree/schirf.rnt

800- 497-747

Schirf.rnt

8

Planning Commission Staff Report

Subject: 152 Sandridge Road Subdivision
Author: Anya Grahn, Historic Preservation Planner
Project Number: PL-15-02952
Date: December 14, 2016
Type of Item: Legislative – Plat Amendment

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing and consider forwarding a positive recommendation to City Council for the 152 Sandridge Road Subdivision, located at the same address, based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Description

Applicant: Joseph and Linda Armstrong
Location: 152 Sandridge Road
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Single-family residences
Reason for Review: Subdivisions require Planning Commission review and City Council action

Proposal

The applicant is requesting a Subdivision for the purpose of combining of creating a legal lot of record from a metes and bounds parcel. Currently, the Summit County Recorder's Office shows the legal description for 152 Sandridge Road as:

PART OF LOT 24 BLK 72 PARK CITY SURVEY ON ONTARIO RIDGE; A 4 ROOM HOUSE KNOWN AS #152 SANDRIDGE TOGETHER WITH THE LAND USUALLY HAD & ENJOYED WITH SD BLDGS FURTHER DESC AS: BEG AT A PT S 73°06'21" E 16.15 FT FROM THE SW COR OF LOT 24 BLK 72 MILLSITE RESERVATION PARK CITY UTAH & RUN TH N 87°18'30" E 38.72 FT; TH S 05°44'05" E 77.55 FT; TH S 83°20' W 27 FT; TH N 18°34'06" W 49.81 FT; TH N 07° W 31.50 FT M/L TO THE PT OF BEG CONT 0.06 AC; BEG AT A PT LOCATED S 73°06'21" E 16.15 FT & N 87°18'30" E 38.72 FT FROM THE SW COR OF LOT 24 BLK 72 MILLSITE RESERVATION PARK CITY UTAH & RUN TH N 87°18'30" E 25.80 FT; TH S 06°40' E 75.75 FT; TH S 83°20' W 27 FT; TH N 05°44'05" W 77.55 FT M/L TO BEG CONT 0.05 AC; ALSO BEG AT A PT LOCATED S 73°06'21" E 16.15 FT & S 07° E 31.50 FT FROM THE SW COR OF LOT 24 BLK 72 MILLSITE RESERVATION PARK CITY UTAH & RUN TH S 75°10' W 35.66 FT; TH S 17°16' E 44.43 FT; TH N 83°20' E 37.41 FT; TH N 18°34'06" W 49.81 FT M/L TO THE PT OF BEG CONT 0.03 AC BAL 0.14 AC MWD-181 QWD-29 GAMI-105 TMI-518 M95-492 405-470-472-477 1172-8111705-725 1783-1916 2317-1244

The applicant currently owns the parcel and requests to create one (1) legal lot of record. The applicant intends to renovate and construct an addition to the historic house in the future; the house has been locally-designated as “Significant” on the Park City Historic Sites Inventory (HSI). There is also an existing historic shed designated as “Significant” that is also located on this site, on the opposite side of Sandridge Road.

Purpose

The purpose of the Historic Residential (HR-1) District:

- (A) preserve present land Uses and character of the Historic residential Areas of Park City,
- (B) encourage the preservation of Historic Structures,
- (C) encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- (D) encourage single family Development on combinations of 25' x 75' Historic Lots,
- (E) define Development parameters that are consistent with the General Plan policies for the Historic core, and
- (F) establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

On October 5, 2015, the applicant submitted an application for the 152 Sandridge Road Subdivision, located at the same address. The application was deemed complete on October 8, 2015, and was amended on October 4, 2016. The amended application deemed complete on October 4, 2016. Staff has delayed bringing this plat amendment to Planning Commission due to a number of issues that have taken us over a year to resolve. These issues include:

- Determining ownership and vacation of Chambers Street directly west of this parcel.
- Applicant modifying the original submittal to no longer include Chambers Street.
- Determining ownership and quit-claiming of remnant triangle parcels to the applicant.
- Memorialize Sandridge Road as a public right-of-way by dedicating it to the City.

Chambers Street currently runs along the west side of the property. Chambers Street is a platted public right-of-way; however, portions of the street have been vacated and incorporated into neighboring plat amendments, such as the 2006 Christians Replat to the south of 152 Sandridge Road. Summit County records and the title companies showed a portion of Chamber Street to be owned by 152 Sandridge Road. Staff questioned this ownership and working with the owner of 152 Sandridge Road determined that this section of Chambers Street had never been vacated. The City does not intend to vacate this portion of Chambers Street at this time and it is not included in this plat amendment.

The metes and bounds parcel, described above, is identified by Summit County as PC-591 (tax id). The parcel currently has improvements that extend beyond the interior property lines, including stone and rock retaining walls, fencing, and an outdoor stone fireplace shared with the neighboring property to the south at 130 Sandridge Road. Most significant, Sandridge Road cuts through the eastern portion of the property.

Based on feedback received from the Development Review Committee, staff has worked with the applicant to address and amend the following prior to Planning Commission review:

- The applicant completed a quit claim deed to claim ownership of a gap of land which had not been previously conveyed as part of the property located at 152 Sandridge. The parcel was located on the southwest corner of the lot, and the proposed plat reflects the addition of this parcel.
- The applicant will dedicate a portion of the property to the City for the built Sandridge Road. There is currently a water line and utilities in the center of the road.

Going forward, the applicant intends to renovate and construct a new addition to the historic house. A Historic District Design Review (HDDR) application was submitted to the Planning Department on June 23, 2015; however, it has not yet been deemed complete. The application is currently on hold while the applicant works through the subdivision process.

In 1998, the property received grant funds to renovate the historic house and shed. The grant covered plumbing upgrades, rock retaining walls, roofing, exterior painting, windows, shoring up the foundation, rewiring the electrical system, and repairs to window trim. The building permit for the restructuring of the shed expired, and a new building permit was issued in 2007 for the upgrades

Analysis

Because Sandridge Road cuts the lot into two segments, the applicant is proposing to create one lot of record—Lot 1 and Parcel A which is appurtenant to Lot 1. Lot 1 contains 3,368.99 square feet and Parcel A is 1,006.39 square feet. The minimum lot size in the HR-1 District is 1,875 square feet. There are existing stone and rock retaining walls, fencing, and an outdoor stone fireplace shared with the neighboring property to the south at 130 Sandridge Road that encroach beyond the property lines of 152 Sandridge.

The existing Sandridge Road runs north-south through the eastern portion of the property. It is located about 14 feet from the east property line on the north side and about 9 feet from the east property line on the south side. The road is approximately 10 feet wide. Per State Code, which states that after 10 years of continuous public use, a road automatically becomes a public ROW, the applicant will dedicate to the City the portion of Sandridge Road that runs through the property. Sandridge Road consumes 969.50 square feet of the property.

There are two historic structures located on the property—the historic house on the west side of Sandridge Road and the historic shed on the east side of the road. The shed is located on the north property line. Both of these structures have been listed on the City’s Historic Sites Inventory and designated as “Significant”. Per LMC 15-2.2-4, Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Complying Structures. Any new additions will be required to comply with Building Setbacks, Building Footprint, driveway location standards, and building height.

The proposed subdivision meets the minimum lot area for a single-family dwelling. The minimum lot width allowed in the HR-1 District is twenty-five feet (25’). The proposed lot is 75.75 feet wide along its eastern edge, and the proposed lot meets the minimum lot width requirement. A Condition of Approval will be added requiring that Parcel A is identified as appurtenant to Lot 1 and cannot be separately developed as Sandridge Road divides the lot. Because of the size and depth of Parcel A, no development could be constructed on this site and comply with setbacks; any new development shall be limited to Lot 1. Table 1 shows applicable development parameters for this proposal in the Historic Residential (HR-1) District:

Table 1

Required	Existing		Permitted
	Lot 1	Parcel A	
Lot size	4,375.38 SF 3,368.99 SF (Total Lot Size with Parcel A = 4,375.38 SF)	1,006.39 SF (Total Lot Size with Lot 1 = 4,375.38 SF)	1,875 square feet minimum; complies
Allowed Footprint	748 square feet	0 square feet ¹ (Historic Shed is 228 SF)	1,710.84 square feet maximum based on total lot size (including Lot 1 and Parcel A)
Front/rear yard setbacks	3 feet from Sandridge Road, 7 feet from rear lot line ²	1 foot from Sandridge Road, 0 feet from rear lot line ²	10 feet minimum from edge of Sandridge Road and 10 feet minimum rear yard setback
Side yard setbacks	5 feet (north), 42 feet (south)	0 feet (north), 55 feet (south)	10 feet, total 24 feet minimum

Building height	20 feet	16 feet	27 feet above existing grade, maximum. A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters
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¹ Historic Accessory Buildings listed on the HSI is not included in the footprint calculation so long as the historic accessory building is not expanded, enlarged, or incorporated is not the Main Building.

² Historic Structures that do not comply with Building Footprint, Building Height, Building Setbacks, Off-Street parking, and driveway location standards are valid Complying Structures.

The following diagram outlines the proposed setbacks for this property. The orange line represents the property boundaries and the green shows the approximate location of the setbacks. As a reminder, Parcel A to the east of Sandridge Road is an undevelopable parcel as any development could not comply with the required setbacks.



Good Cause

Planning Staff finds there is good cause for this plat amendment. Combining the lots will allow the existing owner to clear up the lot line running underneath the home and any new construction will be on one sole lot. Further, it will allow for Sandridge Road, a public right-of-way to be dedicated to the City. The plat amendment will also utilize best planning and design practices, while preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.

Staff finds that the plat will not cause undo harm to adjacent property owners and all future development will be reviewed for compliance with requisite Building and Land Management Code, and applicable Historic District Design Guidelines requirements.

Department Review

This project has gone through an interdepartmental review. There were no issues raised by any of the departments or service providers regarding this proposal that have not been addressed by the conditions of approval.

Notice

The property was posted and notice was mailed to property owners within 300 feet in accordance with the requirements in the LMC on November 30, 2016. Legal notice was also published in the Park Record by November 26, 2016, and posted on the public notice website in accordance with the requirements of the LMC.

Public Input

Staff has not received public input on this application at the time of this report. Public input may be taken at the regularly scheduled City Council public hearing.

Process

Approval of this application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Any new structures and improvements will require a Historic District Design Review. A Building Permit is publicly noticed by posting of the permit.

Alternatives

- The Planning Commission may forward a positive recommendation for approval of the 152 Sandridge Road Subdivision, located at the same address, as conditioned or amended; or
- The Planning Commission may forward a negative recommendation for the 152 Sandridge Road Subdivision, located at the same address, and direct staff to make findings for this decision; or
- The Planning Commission may continue the discussion on the Subdivision to a date certain and provide direction to the applicant and/or staff to provide additional information necessary to make a decision on this item.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The proposed subdivision would not be recorded, the parcel would remain as is and the applicant would not be able to build over interior lot lines, and the parcel would not become a legal lot of record.

Recommendation

Staff recommends the Planning Commission hold a public hearing and consider forwarding a positive recommendation for the 152 Sandridge Road Subdivision, located

at the same address, based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A –Draft Ordinance and Proposed Plat

Exhibit B – Existing Conditions Survey

Exhibit C – Existing Plat Map

Exhibit D – Vicinity Map/Aerial

Exhibit E – Photographs

**AN ORDINANCE APPROVING THE 152 SANDRIDGE ROAD SUBDIVISION,
LOCATED AT THE SAME ADDRESS, PARK CITY, UTAH.**

WHEREAS, the owners of the property known as the 152 Sandridge Road Subdivision, located at the same address, have petitioned the City Council for approval of the 152 Sandridge Road Subdivision; and

WHEREAS, on November 26, 2016 the property was properly noticed by publishing notice in the Park Record and on the Utah Public Notice website and posted according to the requirements of the Land Management Code; and

WHEREAS, on November 30, 2016 proper legal notice was sent to all affected property owners according to the Land Management Code; and

WHEREAS, the Planning Commission held a public hearing on December 14, 2016, to receive input on the proposed subdivision;

WHEREAS, on December 14, the Planning Commission forwarded a _____ recommendation to the City Council; and,

WHEREAS, on January 5, 2017 the City Council held a public hearing on the proposed 152 Sandridge Road Subdivision, located at the same address, and

WHEREAS, there is good cause and it is in the best interest of Park City, Utah, to approve the proposed 152 Sandridge Road Subdivision.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. 152 Sandridge Road Subdivision, located at the same address, as shown in Exhibit A, is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. 152 Sandridge Road Subdivision, located at the same address, is within the Historic Residential (HR-1) District. It is identified by Summit County as tax parcel PC-591.
2. The proposed subdivision will create one (1) legal lot of record from a metes and bounds parcel consisting of a total of 4,375.38 square feet; Lot 1 containing the historic house consists of 3,368.99 square feet and Parcel A containing the historic shed consists of 1,006.39 square feet.
3. On October 5, 2015, the applicants submitted an application for a subdivision to create a legal lot of record from a metes and bounds parcel; the application was

deemed complete on October 8, 2015. The amended plat amendment was deemed complete on October 4, 2016.

4. The parcel at 152 Sandridge Road currently contains a Historic house and shed structure. The site has been identified as “significant” on the City’s Historic Site Inventory.
5. The HR-1 zone requires a minimum lot size of 1,875 square feet. The proposed Lot 1 is 3,388.99 square feet. Proposed Parcel A is 1,006.39 square feet.
6. The maximum footprint for a lot of this size is 1,710.84 square feet based on the size of Lot 1 and Parcel A.
7. The minimum front yard setbacks for this property are 10 feet from the edge of Sandridge Road and 10 feet from the rear property line. The historic house is currently 3 feet from Sandridge Road and 7 feet from the rear property line. The historic shed is 1 foot from Sandridge Road and 0 feet from the property line to the east.
8. The minimum side yard setbacks for this property are 10 feet, for a total of 24 feet. The house has a side yard setback of 10 feet from the north property line and 44 feet from the south. The shed has a 0 foot setback from the north property line and 52 feet from the south.
9. Historic Structures that do not comply with Building setbacks, off-street parking, and driveway location standards are valid complying structures.
10. The applicant completed a quit claim deed, recorded November 2, 2015, in order to claim ownership of a gap of land which should have been included in previous conveyances of the property. The proposed plat amendment reflects the addition of this parcel. The gap parcel will be incorporated into Lot 1.
11. The applicant also completed a quit claim deed, recorded September 22, 2016, to address a triangle parcel. Is it in Lot 1 or Parcel A.
12. Sandridge Road runs north-south through the eastern portion of the property. It is located approximately 14 feet from the east property line on the north side and 9 feet from the east property line on the south side. The road is approximately 10 feet wide. The road was not used in the calculation of the allowable footprint.
13. The property currently has improvements that extend beyond the property lines, including existing stone and rock retaining walls, fencing, and an outdoor stone fireplace shared with the neighboring property to the south at 130 Sandridge Road that encroach beyond the property lines of 152 Sandridge.

Conclusions of Law:

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the subdivision for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the subdivision at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Recordation of this plat and completion and approval of a final Historic District Design Review (HDDR), applications are required prior to building permit issuance for any construction on the proposed lot.
4. No building permit for any work that expands the footprint of the home, or would first require the approval of an HDDR, shall be granted until the subdivision is recorded with the Summit County Recorder's office.
5. The applicant shall dedicate to the City the portion of the built Sandridge Road located within the property lines of 152 Sandridge Road.
6. Encroachments across property lines must be addressed prior to plat recordation and shall either be removed or encroachment agreements shall be provided.
7. Encroachments into Chambers Street shall either be removed or the applicant shall enter into an agreement with the City to remove these at a specified future date.
8. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.
9. Prior to recordation of the subdivision plat, there shall be a plat note addressing the required setbacks. A plat note shall also be added limiting the maximum footprint for Lot 1 and Parcel A to 1,710.84 square feet; any new development shall be limited to Lot 1 of the 152 Sandridge Road Subdivision.
10. The historic shed on Parcel A is exempt from footprint requirements and shall not be included in the total allowed footprint.
11. Parcel A is appurtenant to Lot 1 and cannot be separately developed.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ____ day of _____, 2017

PARK CITY MUNICIPAL CORPORATION

Jack Thomas, MAYOR

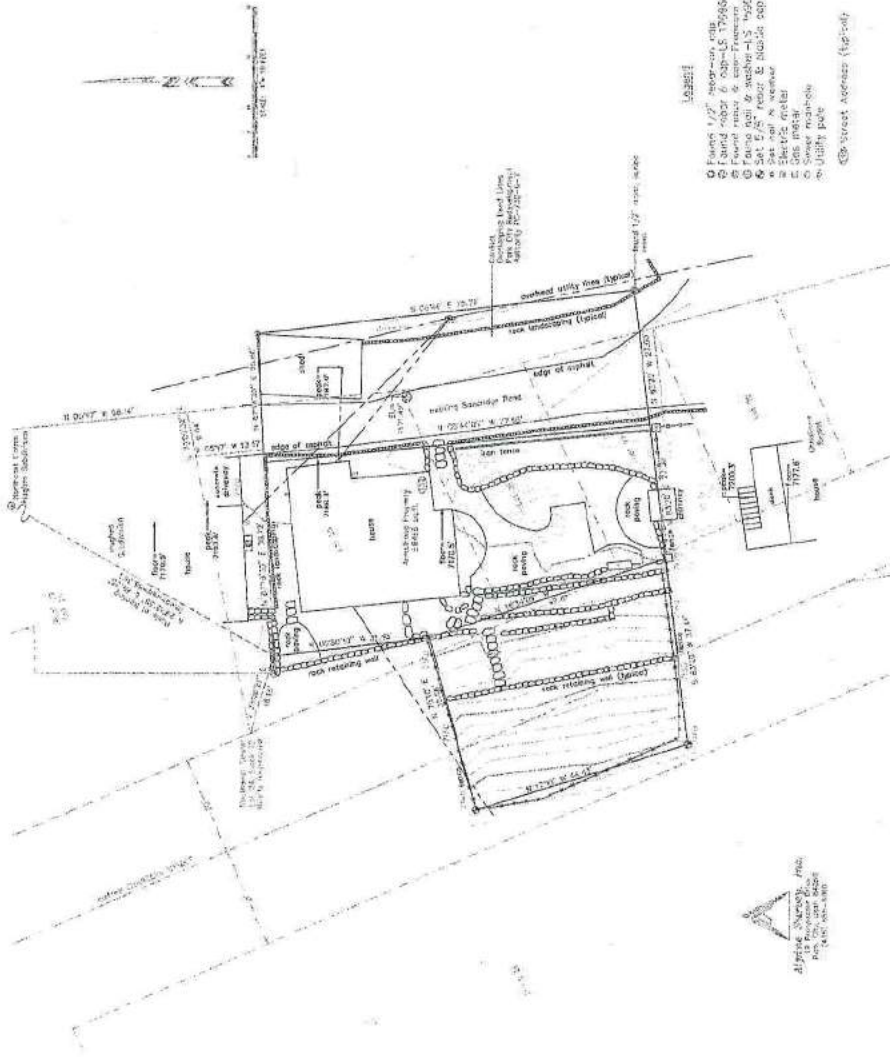
ATTEST:

Michelle Kellogg, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Page 380

[illegible]

USED DESCRIPTION

[illegible]

STUDY YOURS. CONSIDERABLE

1. J.D. Galloway, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 3309205, do hereby certify that I have supervised a survey of the hereunto described property and that this plot is a true representation of said survey.

10

- Floor 1/2" styro-foam rolls
- Paint roller 6" cap-LS 175958
- Power roller & auto-pressure
- Power nail & washer-LS 192205
- Set 5/8" roller & blades 600
- Set nail & washer
- Electric meter
- Gas meter
- Sewer manhole
- Utility pole

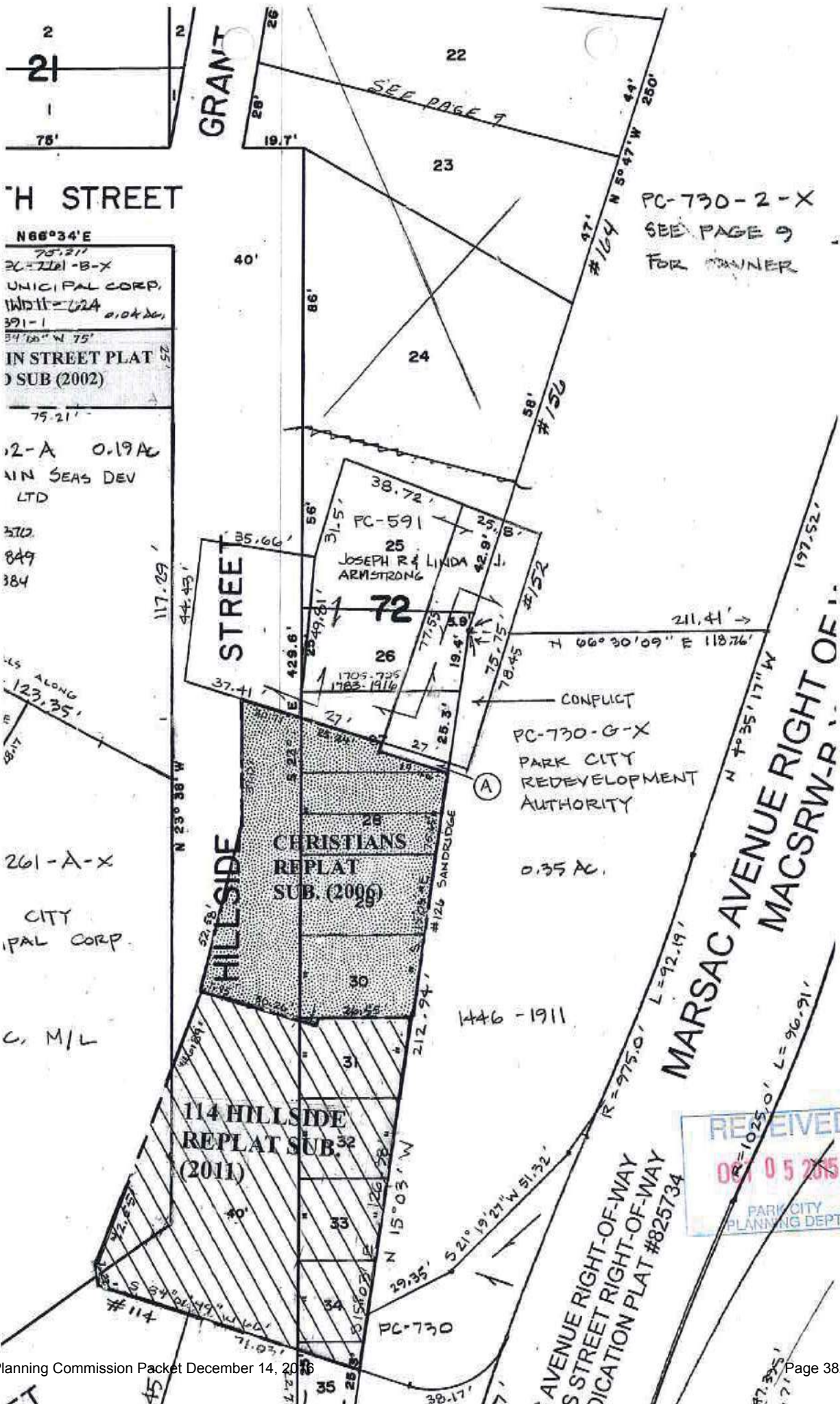
222 Street Address (Optional)

June 17, '15
Date

RECEIVED
OCT 05 2015
PARK CITY
PLANNING DEPT.

FILE NO. S000B416
 DATE FILED 01-04-02
 NEW YORK COUNTY CLERK
 100 NASSAU ST. 12TH FL.
 NEW YORK, NY 10038

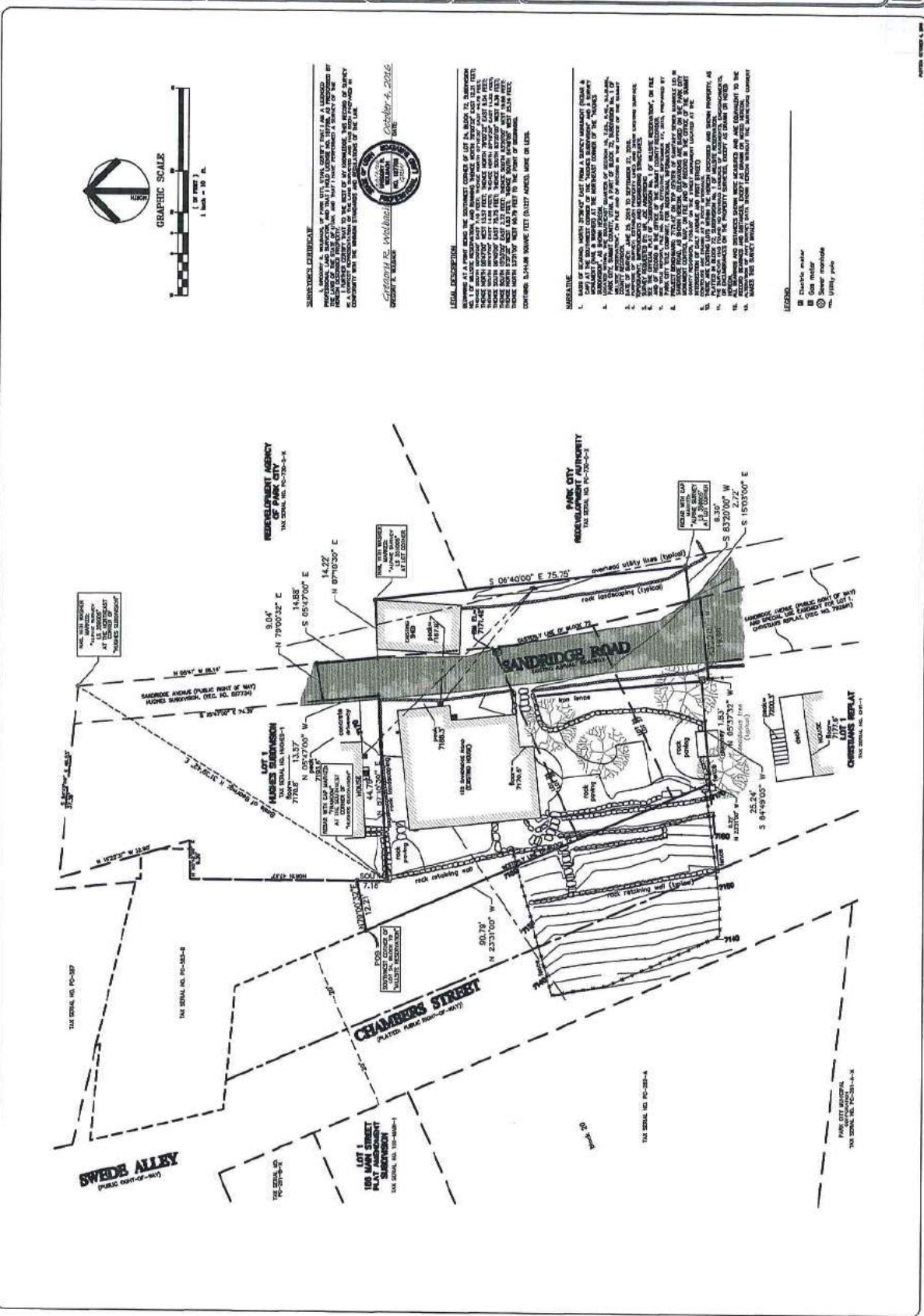
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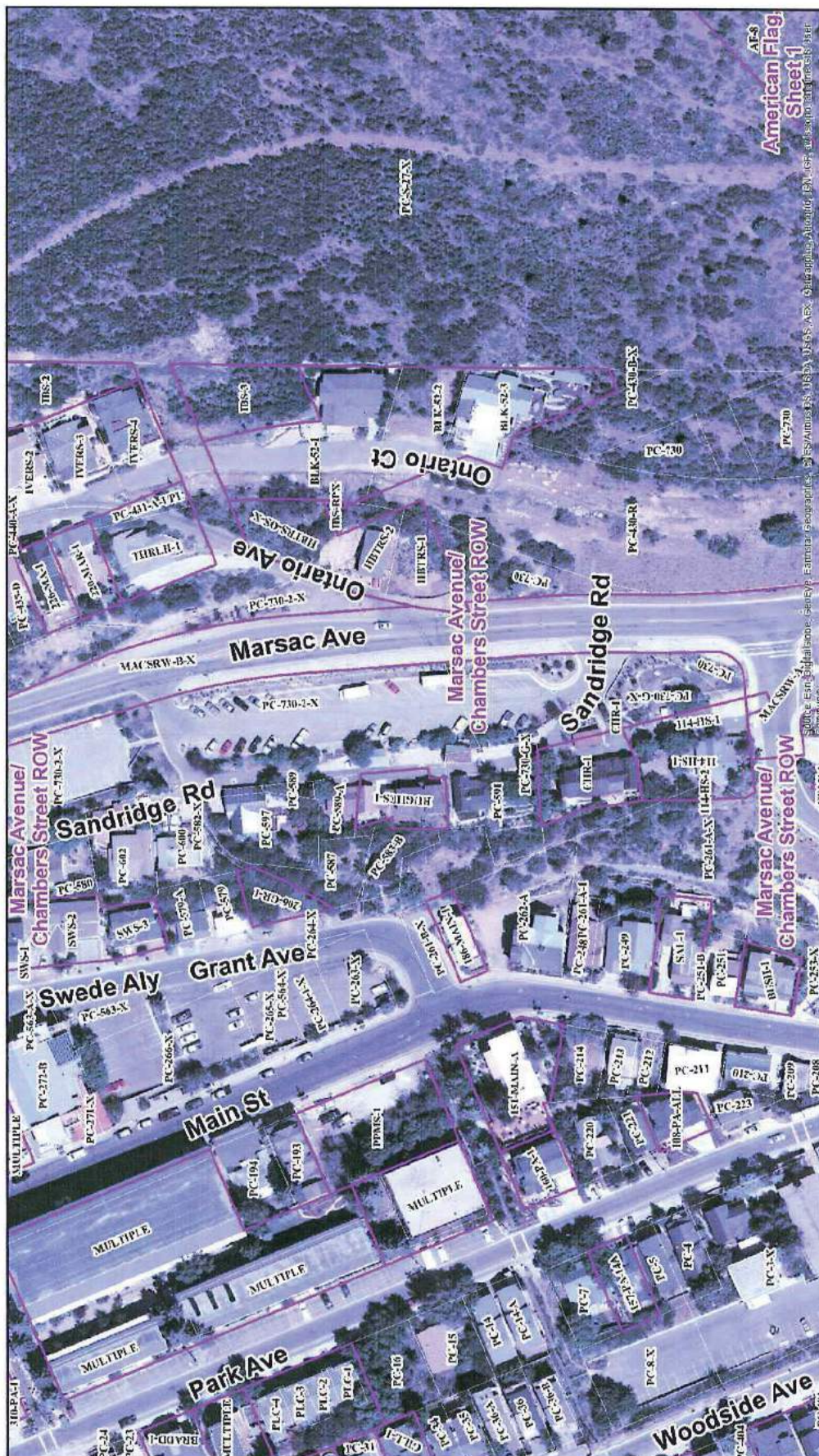




RECEIVED
OCT 05 2015
PARK CITY
PLANNING DEPT.

SCALE	
ONE INCH	40 FEET
BOOK	PAGE

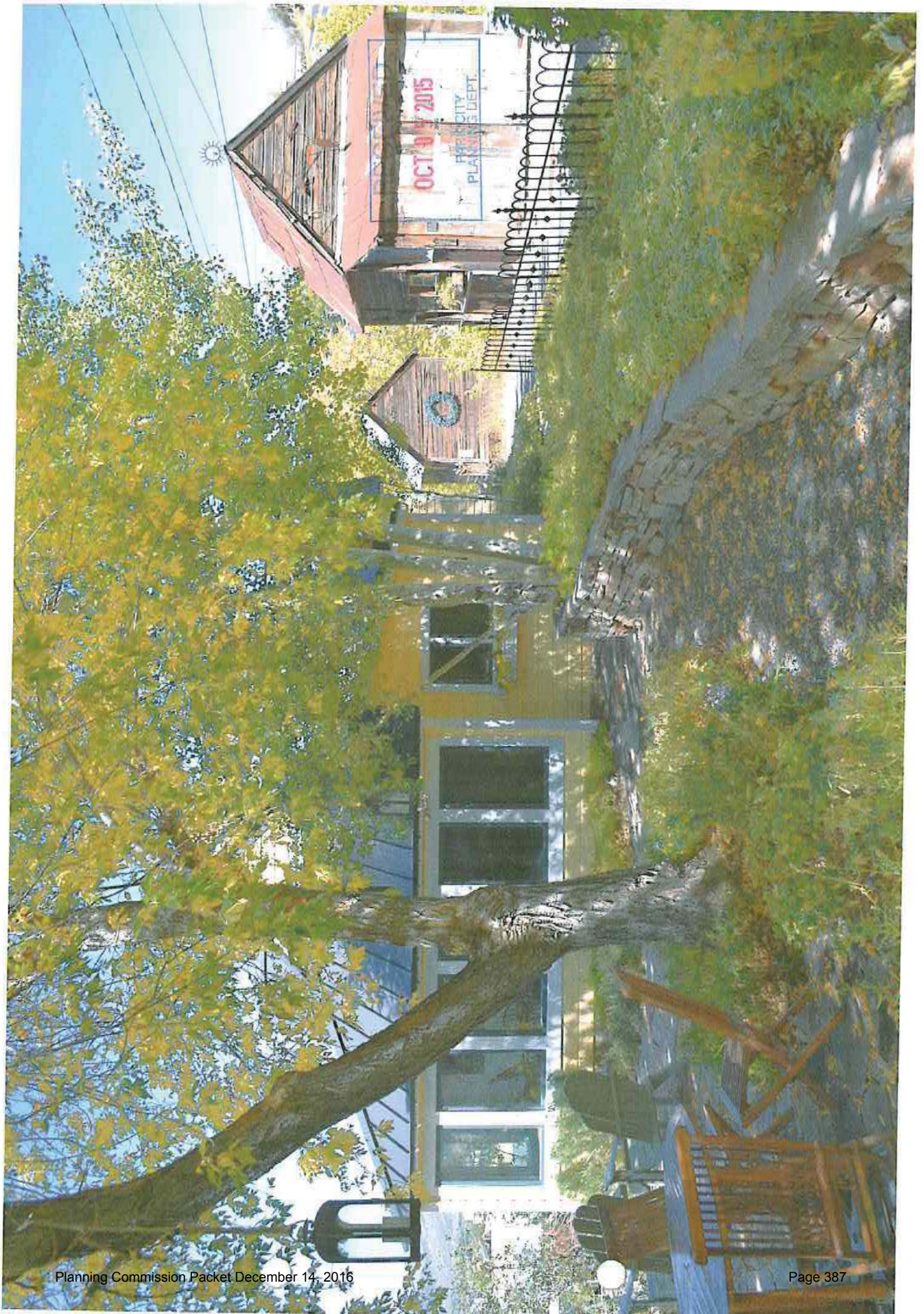




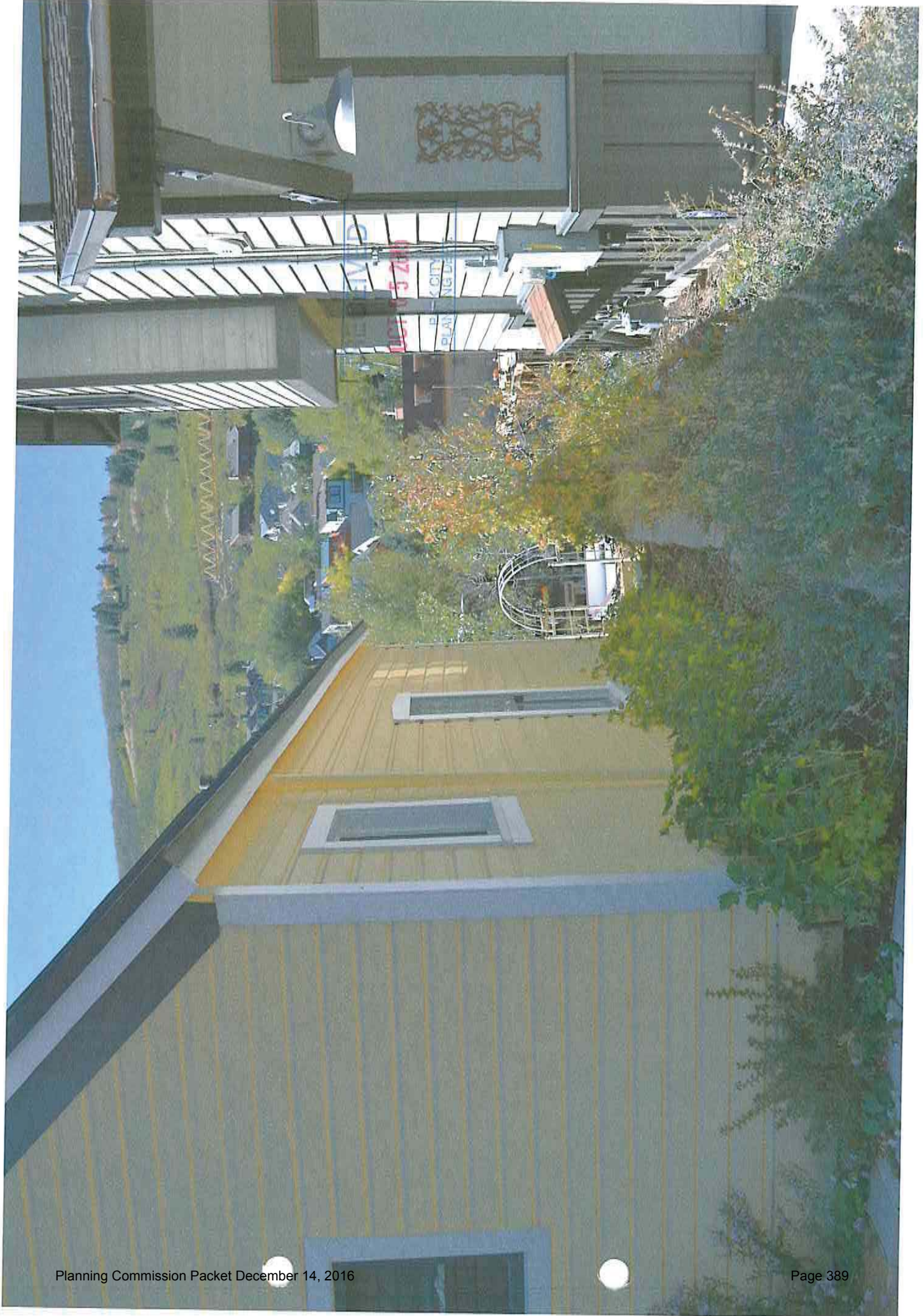
Summit County Online Parcel Reference Map
 Printed on: 9/25/2015
 Map Title
 1 in = 101 feet
 SUMMIT COUNTY
 This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information and data obtained from various sources, including Summit County which is not responsible for its accuracy or timeliness.

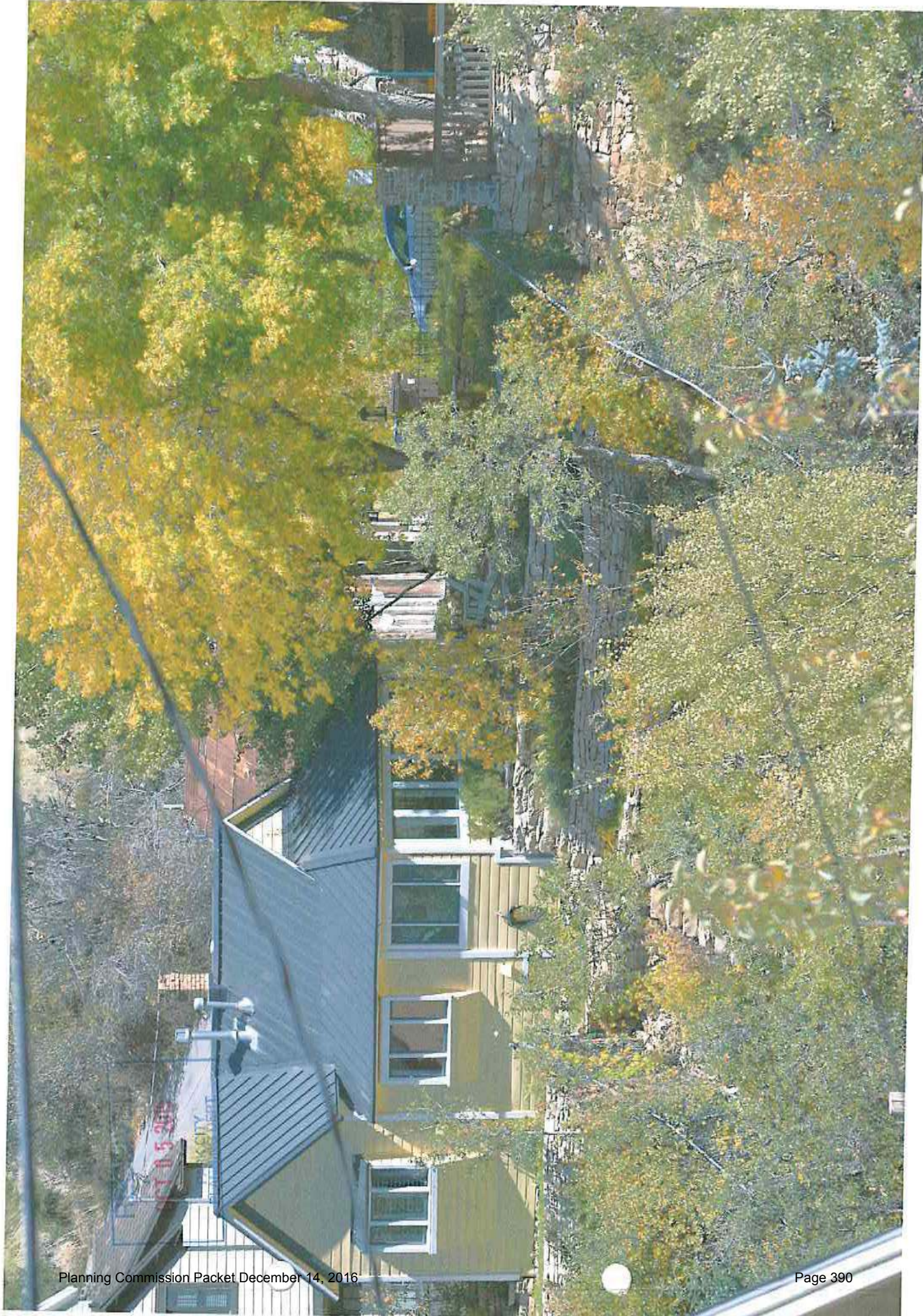
RECEIVED
 OCT 05 2015
 PARK CITY
 PLANNING DEPT.













Planning Commission Staff Report



Application #: PL-15-02999
Subject: Second Amended Intermountain Healthcare (IHC) Master Planned Development
Author: Kirsten Whetstone, MS, AICP- Senior Planner
Date: December 14, 2016
Type of Item: Extension of Ratification of Development Agreement

Summary Recommendations

Staff recommends Planning Commission extends the date for ratification of a Development Agreement for the Intermountain Healthcare Master Planned Development (IHC MPD) and subsequent amendments to July 13, 2017.

Description

Applicant: IHC Hospital, Inc. represented by Morgan D. Busch
Location: 900 Round Valley Drive
Zoning District: Community Transition (CT) Zoning District
Adjacent Land Uses: Park City Recreation Complex, USSA training facility, US Highway 40, and open space.
Reason for Review: The Land Management Code requires Planning Commission ratification of Development Agreements for Master Planned Developments to memorialize conditions of approval as outlined in the Land Management Code.

Summary of Proposal

This is a request to extend the date for ratification of a Development Agreement for the Intermountain Healthcare Master Planned Development approved amendments to July 13, 2017. The Second Amendment was approved on January 13, 2016 (see action letter, Exhibit B) and there was a condition that the Development Agreement be ratified by the Planning Commission within 6 months of final action on the MPD Amendment application. The Development Agreement was to cover all items of the original MPD as well as the First and Second Amendments. At the January 13, 2016 meeting one of the requested items of the Second MPD Amendment application was continued to a date uncertain to allow additional time for review of the density, unit equivalent calculations for various uses, and possible Land Management Code amendments. So while there was Final action on portions of the Second MPD Amendment application, there is still an outstanding item which Staff is waiting for and that delayed moving forward on the Development Agreement.

On October 12th Staff and the applicant met and the applicant requested that a Development Agreement be ratified for the amendments approved to date. As the 6 month timeframe had passed the applicant requested an extension to the ratification timeframe (Exhibit A). Staff agreed to draft a Development Agreement consistent with the MPD and Amendments approved on October 8, 2014 and January 13, 2016. If action is taken on the outstanding item in the future, an amended Development

Agreement will need to be ratified by the Planning Commission and recorded at Summit County.

Background

On May 23, 2007, the IHC MPD was approved by the Planning Commission. The MPD includes an Intermountain Healthcare Hospital with a total of 300,000 square feet (180 Unit Equivalents [UEs]) for hospital uses and a total of 150,000 square feet (150 UEs) of Support Medical Office space and is subject to the approved Annexation and Development Agreement recorded at Summit County on January 23, 2007.

On June 30, 2014, applications for the first MPD amendment and a Conditional Use Permit for the second phase of development at the Park City Medical Center were submitted. On October 8, 2014, the Planning Commission conducted a public hearing and approved the First Amended IHC MPD and the Conditional Use Permit. Construction of the second phase is currently underway.

November 10, 2015, Intermountain Healthcare Hospital Inc. submitted an application for a second MPD amendment. On January 13, 2016, the Planning Commission conducted a public hearing and approved the Second Amended IHC MPD, as described in the attached action letter (Exhibit B).

One item of the Second MPD Amendment application, requesting an additional 50,000 square feet of medical support uses, was continued for further discussion to a date uncertain. The applicant requests that this request be brought up for discussion in 2017, following possible Land Management Code amendments concerning density and unit equivalent calculations and definitions.

Development Agreement

Land Management Code Section 15-6-4 (G) states that once the Planning Commission has approved a Master Planned Development, the approval shall be put in the form of a Development Agreement. The LMC requires that a Development Agreement is submitted to the City within six (6) months of the approval of the MPD. The Development Agreement must be ratified by the Planning Commission and signed by the Mayor on behalf of the City Council, prior to recordation at the Summit County Recorder's office.

The applicant and Staff were waiting for the final item requested in the Second MPD Amendment application to be considered by the Planning Commission prior to drafting the Development Agreement. Because this item requires further density discussion and possible Land Management Code amendments, it was continued to a date uncertain.

On October 12, 2016, Staff and the applicant met and the applicant requested that the Development Agreement be ratified to reflect the two approved amendments.

Staff will schedule for Planning Commission ratification of the Development Agreement as soon as the draft Agreement has been thoroughly reviewed by the applicant and City

Staff. Staff estimates that the ratification date will be at the second Planning Commission meeting in February, to allow adequate time for review.

Notice

On November 30, 2016, the property was posted and notice was mailed to property owners within 300 feet. On November 26, 2016, legal notice was posted on the City website and published in the Park Record and Utah Public Notice Website according to requirements of the Land Management Code.

Public Input

No public input has been received at the time of this report. A public hearing has been legally noticed for this meeting and the public or interested parties may provide input at this meeting regarding the request to extend the ratification date of the Development Agreement.

Alternatives

- The Planning Commission may approve the extension of ratification date to July 13, 2017; or
- The Planning Commission may deny the extension of ratification date and direct staff to make findings of fact to support this decision; or
- The Planning Commission may continue the discussion and request additional information.

Future Process

Upon approval of this request to extend the ratification date the Staff and applicant will finalize the Development Agreement to memorialize the IHC MPD approvals, including the First and Second Amendments, and place this item on a Planning Commission date for ratification. Following ratification the Development Agreement shall be recorded at Summit County.

Recommendations

Staff recommends Planning Commission extend the date for ratification of a Development Agreement for the Intermountain Healthcare Master Planned Development (IHC MPD), as amended, to July 13, 2017, based on the following findings of fact.

Findings of Fact

1. The IHC MPD was approved by the Planning Commission on May 23, 2007, subject to the Annexation Agreement recorded at Summit County on January 23, 2007.
2. The IHC MPD consists of Lots 1, 2, 4, 5, 6, 7, 8, 9, 10, and 11 Intermountain Healthcare Park City Medical Campus / USSA Headquarters and Training Facility Subdivision (IHC/USSA Subdivision), and generally includes an Intermountain Healthcare Hospital of 300,000 square feet (180 Unit Equivalents) located on Lot 1 and Support Medical Office space of 150,000 square feet (150 Unit Equivalents) located on Lots 1, 7, and 10.
3. The property is generally located on Round Valley Drive west of US 40 and east of Round Valley in the Quinn's Junction neighborhood of Park City.

4. Lot 2 of the IHC/USSA Subdivision plat is dedicated as open space.
5. Lot 3 is not part of the IHC MPD and is the location of the USSA Headquarters and Training Center MPD.
6. Lot 4 was the original location of 28 affordable, deed restricted townhouse units incorporated into the Park City Heights neighborhood during the Park City Heights MPD approval. Lot 4 currently has no designated density.
7. Lot 5 was dedicated and transferred to the City for future recreation uses and has no designated density.
8. The density initially designated for Lot 6 was transferred to Lot 1 with the First Amendment to the MPD.
9. Lot 7 contains the 25,000 sf medical support office density and is also known as Physician Holdings or MOB (Medical Office Building).
10. The density initially designated for Lot 8 was transferred to Lot 1 with the First Amendment to the MPD.
11. Lot 9 contains a small Questar gas regulating facility.
12. Lot 10 is the location of the Summit County Health Department and People's Health Clinic utilizing 25,000 sf of support medical office density. Summit County has a ground lease from IHC on this lot.
13. Lot 11 is the one acre lot around Lot 9, owned by IHC and not designated as to use or density.
14. The Annexation Agreement sets forth maximum building floor areas, development location, and conditions related to developer-provided amenities on the various lots of the IHC/USSA subdivision plat, such as roads, utilities, and trails.
15. A Development Agreement reflecting the approved Master Planned Development and subsequent amendments needs to be ratified by the Planning Commission and recorded at Summit County.
16. The property is located in the Community Transition (CT) Zone.
17. A First Amended IHC MPD was approved by the Planning Commission on October 8, 2014, transferring assigned medical support density from Lots 6 and 8 to Lot 1, along with other amendments related to Phase 2 of the Medical Center construction.
18. The Second Amended IHC MPD was approved by the Planning Commission on January 13, 2016, approving administrative corrections to conditions #16 and #17 of the October 8, 2014 First Amended IHC MPD, the subdivision of Lot 8 into two lots, and allowing the Peace House use on amended Lot 8.
19. One additional item included in the Second IHC MPD Amendment application, regarding additional density for support medical uses, was continued to a date uncertain, and final action on this item has not yet occurred.
20. The January 13, 2016, approved MPD Amendments included the following conditions of approval:
 1. All applicable conditions of approval of the IHC/USSA Annexation Agreement shall apply to this MPD amendment.
 2. All applicable conditions of approval of the Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Second Amended subdivision plat shall apply.
 3. Construction of the Peace House facility on Lot 8 shall be subject to an approved Conditional Use Permit, as well as to all applicable conditions of approval of the MPD, as amended, the Annexation Agreement, and the Subdivision plat.

4. A Development Agreement specifically for the IHC Master Planned Development, as amended, shall be ratified by the Planning Commission within 6 months of final action on the MPD Amendment application.
5. The Development Agreement shall reiterate all applicable requirements of the Annexation Agreement, as well as zoning requirements related to findings, conclusions, and conditions of approval of the MPD, included the approved amendments.
6. The Development Agreement shall include an express reservation of the future legislative power and zoning authority of the City, a copy of the approved MPD plans and any other plans that are a part of the Planning Commission approval, a description of all Developer exactions or agreed upon public dedications, an agreement to pay all specified impact fees; a description of the form of ownership anticipated for the project; and a list and map of all known Physical Mine Hazards on the property.
7. All construction within the IHC MPD is subject to the plat notes and conditions of approval of the Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility amended subdivision plat recorded at Summit County on November 25, 2008, as well as conditions of approval of the IHC MPD, as amended, including amendments to Conditions #16 and #17 of the October 8, 2014 MPD Amendment approval, as described in #8 below.
8. Conditions #16 and #17 of the October 8, 2014 approval of the First Amended IHC MPD shall be amended, and reflected in the Development Agreement, as follows:
 - a) Condition #16 shall be deleted.
 - b) Condition #17 shall be amended to state the following: The applicant shall submit a parking study as part of an application for the next Medical Center expansion. The study shall include qualified transportation professionals recommendations addressing the potential impact of reduced parking ratios in future phases and a comprehensive program to increase utilization of underutilized parking areas; along with impacts to street intersections out to and including SR-248.
21. The applicant and Staff were waiting for the density issue requested with the Second MPD Amendment application to be considered by the Planning Commission prior to drafting the a Development Agreement. This amendment requires further density discussion and possible Land Management Code amendments, and has been continued to a date uncertain.
22. On October 12th Staff and the applicant met and the applicant requested that a Development Agreement be ratified for the MPD amendments approved to date.
23. As the 6 month timeframe has passed, based on the January 13, 2016 approval date of the Second Amendment, the applicant requested an extension to the ratification timeframe.
24. Staff is in the process of drafting a Development Agreement consistent with the MPD Amendments approved on October 8, 2014 and January 13, 2016 and will present the Development Agreement to the Commission for ratification in early 2017.
25. Following ratification the Development Agreement will be recorded at Summit County.
26. If final action is taken on the outstanding item of the MPD Amendment application in

the future, an amended Development Agreement will need to be ratified and recorded.

Exhibits

Exhibit A- Applicant request for extension

Exhibit B- Action letter for Second Amended IHC MPD (January 13, 2016)



36 South State Street, 23rd Floor
Salt Lake City, UT 84111-1486
801.442.2000

5 December 2016

Kirsten Whetstone, Senior Planner
Park City Municipal Corporation
Planning Department
445 Marsac Avenue
PO Box 1480
Park City, Utah 84060

Dear Kirsten,

When we met on October 12th, 2016, at my request to discuss the fact that the development agreement for the amended MPD had not been completed, since the Land Management Code review was still in process, and the six month deadline for the development agreement had passed. During our conversation it was proposed that a development agreement be written for the approved amendments. Legal advised that we needed to request an extension from the Planning Commission of the deadline.

This letter is Intermountain Healthcare's formal request that the Park City Planning Commission amend the deadline for the development agreement in condition 4 of the 2nd amendment to the Intermountain Healthcare MPD be extended to July 13, 2017. The development agreement should document all conditions that have been approved to date.

When and if any future amendments to the MPD are approved, then Intermountain realizes that the development agreement would need to be amended to reflect any such approvals.

Sincerely,

A handwritten signature in black ink that reads "Morgan David Busch".

Morgan Busch
Senior Strategic Planning Consultant



February 2, 2016

Morgan Busch
36 South State Street, 8th Floor
Salt Lake City, UT 84111

NOTICE OF PLANNING COMMISSION ACTION

<u>Application #</u>	PL-15-02999
<u>Address</u>	700 and 900 Round Valley Drive
<u>Description</u>	Second Amended IHC Master Planned Development Application for the following amendments:

1. Affordable Housing and locating Peace House on Lot 8.
2. Subdivision of Lot 8 into two lots.
3. Administrative adjustments to conditions of approval from First Amended IHC Master Planned Development of October 8, 2014. Requirement of a Development Agreement to memorialize MPD Amendments.

Date of Action January 13, 2016

On January 13, 2016, the Park City Planning Commission called a meeting to order, a quorum was established, a public hearing was held, and the Planning Commission discussed and approved your application based on the following findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. On November 10, 2015, the City received a complete application for an MPD Amendment for the Intermountain Healthcare Master Planned Development (IHC MPD).
2. The proposed MPD Amendment includes the following items:
 - Allow the Peace House facility to be located on Lot 8 of the IHC/USSA subdivision plat to fulfill a portion of the remaining affordable housing obligation for the IHC MPD. A Conditional Use Permit (CUP) is required prior to building permit issuance. A CUP application was submitted for concurrent review with the MPD Amendment application.
 - Allow Lot 8 to be subdivided into two lots with the eastern 3.6 acres proposed to be leased to the Peace House as Lot 8 and the western 6.334 acres to become a new Lot 12 retained by the Intermountain Healthcare with no density assigned to it. A plat amendment application is required and has not yet been submitted.
 - Add 50 Unit Equivalents (UE) of density as 50,000 square feet of support medical offices/clinics to the overall IHC MPD to be located on Lot 1. **(Note- this item**

was continued for further analysis and discussion with Staff recommendation to bring it back to the Planning Commission later in 2016.)

- Make administrative corrections to conditions #16 and #17 of the October 8, 2014, approval of the First Amended IHC MPD.
 - Include a condition of approval requiring recordation of a Development Agreement to cover all items of the original MPD as well as the First and Second Amendments.
3. The IHC MPD was approved by the Planning Commission on May 23, 2007.
 4. A First Amended IHC MPD was approved by the Planning Commission on October 8, 2014, transferring assigned medical support density from Lots 6 and 8 to Lot 1, along with other amendments related to Phase 2 of the Medical Center construction.
 5. The IHC MPD consists of Lots 1, 2, 4, 5, 6, 7, 8, 9, 10, and 11 of the Second Amended Intermountain Healthcare Park City Medical Campus / USSA Headquarters and Training Facility Subdivision (IHC/USSA Subdivision) approved and recorded at Summit County on November 25, 2008.
 6. The property is generally located on Round Valley Drive west of US 40 and east of Round Valley in the Quinn's Junction neighborhood of Park City.
 7. The approved IHC MPD includes an Intermountain Healthcare Hospital of 300,000 square feet (180 Unit Equivalents) located on Lot 1 and Support Medical Office space of 150,000 square feet (150 Unit Equivalents) located on Lots 1, 7, and 10.
 8. Lot 2 of the IHC/USSA Subdivision plat is dedicated as open space.
 9. Lot 3 is not part of the IHC MPD and is the location of the USSA Headquarters and Training Center MPD.
 10. Lot 4 was the original location of 28 affordable, deed restricted townhouse units incorporated into the Park City Heights neighborhood during the Park City Heights MPD approval. Lot 4 currently has no designated density and is an open space lot.
 11. Lot 5 was dedicated and transferred to the City for future recreation uses.
 12. The density initially designated for Lot 6 was transferred to Lot 1 with the First Amendment to the MPD.
 13. Lot 7 contains the 25,000 sf medical support office density and is also known as Physician Holdings or MOB (Medical Office Building).
 14. The density initially designated for Lot 8 was transferred to Lot 1 with the First Amendment to the MPD.
 15. Lot 9 contains a small Questar gas regulating facility.
 16. Lot 10 is the location of the Summit County Health Department and People's Health Clinic utilizing 25,000 sf of support medical office density. Summit County has a ground lease from IHC on this lot.
 17. Lot 11 is the one acre lot around Lot 9, owned by IHC and not designated as to use or density.
 18. This MPD amendment is being processed concurrent with a Conditional Use Permit application submitted for the Peace House proposed to be located on the eastern portion of Lot 8 with a ground lease to the property from IHC.
 19. The Peace House includes approximately 25,964 sf of emergency shelter and transitional housing, 8,622 square feet of shelter and housing support uses related to the Peace House mission, 2,096 square feet of circulation and back of house uses (mechanical, storage, etc.), and 4,096 square feet. The proposed building also includes a 4,096 square foot parking structure for a gross building size of

approximately 41,000 square feet.

20. On June 4, 2015 the Park City Housing Authority approved an amended Housing Mitigation Plan outlining the affordable housing strategy for the IHC MPD and approved the Peace House as part of that strategy.
21. The June 4, 2015 Housing Authority approval included a condition of approval that future density increases for the IHC Medical Campus at Park City Medical Center will be reduced by 10 AUEs or 8,000 square feet to address the issue that a portion of the Peace House facility is provided as satisfaction of an affordable housing obligation for the Tanger Outlet expansion through the Summit County approvals.
22. The June 4, 2015 Housing Authority approval also included a condition that if the Peace House ceases operation of their program on Lot 8 prior to 50 years from the date of signing the amended Housing Mitigation Plan agreement, IHC will owe the City 12.5 AUEs.
23. The Park City Housing Authority is the decision making body responsible for approving any amendments to the IHC MPD Affordable Housing Mitigation Plan and for determining the number of AUEs the Peace House facility will count for. A final Housing Mitigation Plan will be reviewed by the Park City Housing Authority based on uses, residential units, and square footages of the final approved Peace House CUP.
24. The IHC MPD is subject to the IHC/USSA/Burbidge Annexation plat approved by the Park City Council on December 7, 2006, with an effective date of January 1, 2007.
25. A plat amendment application is required to be submitted for review by the Planning Commission with final action by the City Council in order to subdivide Lot 8.
26. An Annexation Agreement for this property was recorded on January 23, 2007.
27. The Annexation Agreement is currently the Development Agreement for the MPD and sets forth maximum building floor areas, development location, and conditions related to developer-provided amenities on the various lots of the IHC/USSA subdivision plat, such as roads, utilities, and trails.
28. The property is located in the Community Transition (CT) Zone.
29. The maximum Building Height in the CT Zone is 28 feet (33 feet with a pitched roof). The IHC MPD provided height exceptions for the Park City Medical Center on Lot 1. The remaining lots are subject to the CT Zone Height. No changes to MPD approved heights are proposed.
30. The proposed Peace House building on Lot 8 complies with the maximum Building Height of the CT Zone.
31. The setbacks within the CT Zone are twenty five feet (25') in the front, rear, and sides. The proposed Peace House building complies with these setback requirements.
32. There is no minimum lot size in the CT Zone.
33. The base density in the CT Zone is 1 unit per 20 acres. Maximum density allowed in the CT Zone for non-residential projects is 3 units per acre provided that all Density bonus requirements set forth in LMC Section 15-2.23 A are met and the additional standards are incorporated into the Master Planned Development. This MPD Amendment does not change the allocated density within the IHC MPD.
34. Eighty percent (80%) open space is required for approved density and this MPD Amendment does not change the total open space within the MPD. With construction of the Peace House facility the open space for the entire annexation

area will be at approximately 85%.

35. Trails and linkages to trails as shown on the approved IHC MPD comply with the City's Master Trail Plan. No changes to the trails or linkages are proposed with this MPD Amendment.
36. A pre-MPD application for these MPD Amendments was submitted on September 14, 2014 and reviewed by the Planning Commission on April 8th, August 26th, October 28th, and Nov 11th, 2015. The Planning Commission conducted public hearings on these dates and made findings that the proposed MPD Amendments initially comply with the intent of the Park City General Plan and general purposes of the Community Transition (CT) Zoning District.
37. Green Building requirements are part of the Annexation Agreement and continue to apply to the Peace House CUP.
38. Administrative corrections to conditions #16 and #17, of the October 8, 2014 approval of the First Amended IHC MPD, are included as part of these MPD amendments.
39. Condition #16 was left over from the original MPD approval and states that prior to issuance of a building permit for future phases the applicant and Staff shall verify that all items agreed to by the applicant (as listed in Finding of Fact #21 of the original approval), as mitigation for the loss of the use of the planned ball field at the Park City Recreation Complex, have been completed. The applicant and Staff verified that these items have been satisfied and this Condition is not necessary and should not be included in the language of the Development Agreement.
40. Condition #17 states that the applicant shall conduct and present to the Planning Commission a parking study of the Medical Center site as part of the October 8th Amendments. The Commission discussed the timing of the study and determined that the study was not needed with the Second Phase of construction but should be included with any applications for future construction of the Medical Center.
41. A condition of approval requiring recordation of a Development Agreement to cover items of the original MPD as well as the First and Second Amendments is included as part of this amended MPD.
42. The **Analysis** section of this staff report is incorporated herein.

Conclusions of Law:

1. The MPD amendment, as conditioned, complies with all the requirements of the Land Management Code.
2. The MPD amendment, as conditioned, meets the minimum requirements of Section 15-6-5 of the LMC Code.
3. The MPD amendment, as conditioned, is consistent with the Park City General Plan.
4. The MPD amendment, as conditioned, provides the highest value of open space, as determined by the Planning Commission.
5. The MPD amendment, as conditioned, strengthens and enhances the resort character of Park City.
6. The MPD amendment, as conditioned, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible.
7. The MPD amendment, as conditioned, is Compatible in Use, scale and mass with adjacent Properties, and promotes neighborhood Compatibility.
8. The MPD amendment provides amenities to the community so that there is no net

loss of community amenities.

9. The MPD amendment, as conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
10. The MPD amendment, as conditioned, meets the provisions of the Sensitive Lands provisions of the Land Management Code. The project has been designed to place Development on the most Developable Land and least visually obtrusive portions of the Site.
11. The MPD amendment, as conditioned, promotes the Use of non-vehicular forms of transportation through design and by providing trail connections.
12. The MPD amendment has been noticed and public hearing held in accordance with this Code.

Conditions of Approval:

1. All applicable conditions of approval of the IHC/USSA Annexation Agreement shall apply to this MPD amendment.
2. All applicable conditions of approval of the Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Second Amended subdivision plat shall apply.
3. Construction of the Peace House facility on Lot 8 shall be subject to an approved Conditional Use Permit, as well as to all applicable conditions of approval of the MPD, as amended, the Annexation Agreement, and the Subdivision plat.
4. A Development Agreement specifically for the IHC Master Planned Development, as amended, shall be ratified by the Planning Commission within 6 months of final action on the MPD Amendment application.
5. The Development Agreement shall reiterate all applicable requirements of the Annexation Agreement, as well as zoning requirements related to findings, conclusions, and conditions of approval of the MPD, included the approved amendments.
6. The Development Agreement shall include an express reservation of the future legislative power and zoning authority of the City, a copy of the approved MPD plans and any other plans that are a part of the Planning Commission approval, a description of all Developer exactions or agreed upon public dedications, an agreement to pay all specified impact fees; a description of the form of ownership anticipated for the project; and a list and map of all known Physical Mine Hazards on the property.
7. All construction within the IHC MPD is subject to the plat notes and conditions of approval of the Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility amended subdivision plat recorded at Summit County on November 25, 2008, as well as conditions of approval of the IHC MPD, as amended, including amendments to Conditions #16 and #17 of the October 8, 2014 MPD Amendment approval, as described in #8 below.
8. Conditions #16 and #17 of the October 8, 2014 approval of the First Amended IHC MPD shall be amended, and reflected in the development agreement, as follows:
 - a) Condition #16 shall be deleted.
 - b) Condition #17 shall be amended to state the following: The applicant shall submit a parking study as part of an application for the next Medical Center expansion. The

study shall include qualified transportation professionals recommendations addressing the potential impact of reduced parking ratios in future phases and a comprehensive program to increase utilization of underutilized parking areas; along with impacts to street intersections out to and including SR-248.

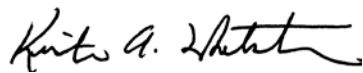
9. In order to create a separate lot of record for the Peace House, a plat amendment application would be required to be submitted to the City.

In addition, during the pre-MPD application discussions with the Planning Commission the issue of whether a Park City Fire District Fire Station was an appropriate use within the MPD was discussed. It was supported to be an appropriate use, with the issue of location and density allocation to be determined during future discussions of the request for 50 UE of additional density for the IHC-MPD.

In addition to the above conditions of approval, staff notes that all conditions of approval of the May 23, 2007 IHC-MPD approval, as well as all conditions of approval of the October 8, 2014, First Amended IHC-MPD approval, shall continue to apply as applicable.

If you have questions regarding your project or the action taken please don't hesitate to contact me at (435) 615-5066 or kirsten@parkcity.org. I will review the Planning Commission schedule and identify a meeting in early spring to continue discussions regarding additional density requested by IHC.

Sincerely,



Kirsten Whetstone, MS, AICP
Senior Planner

Park City Planning Department
PO Box 1480
Park City, UT 84060

Planning Commission Staff Report



Application: PL-16-03177
Subject: Tower Club CUP Phase I Amendment
Author: Kirsten Whetstone, MS, AICP, Senior Planner
Date: December 14, 2016
Type of Item: Administrative - Conditional Use Permit amendment

Summary Recommendations

Staff recommends the Planning Commission holds a public hearing and approves the amended Tower Club Phase I Conditional Use Permit (aka Empire Club Phase I Conditional Use Permit) to expand the Tower Club private dining room and basement area pursuant to the findings of fact, conclusions of law, and conditions of approval outlined in this report.

Description

Applicant: Talisker Club LLC, Brian Straight, General Manager
Location: 8680 Empire Club Drive- Pod A, Lot 9 Village at Empire Pass Phase 1 Subdivision (Building One)
Zoning: Residential Development (RD) District as part of the Flagstaff Annexation and Master Planned Development (MPD)
Adjacent Land Uses: Deer Valley Resort, condominiums, townhouses, and vacant development parcels of the Village at Empire Pass Pod A

Summary of Proposal

On May 17, 2016, the Planning Department received an application for an amendment to the Tower Club Phase I Conditional Use Permit (CUP) requesting approval to expand the existing Tower Club private dining area by approximately 1,115 square feet by enclosing an existing patio area, adding 32 indoor seats in the dining room, constructing a new patio area, and providing a basement locker room of approximately 1000 square feet for ski and boot storage below the new patio (Exhibits A and B). Total area for the dining room, kitchen and store will be 3,379 square feet of DV Resort Support Commercial uses.

The existing mechanical room will be expanded to include a separate chemical storage area and the store has been relocated to accommodate an access corridor for the locker room. The building is currently known as the Talisker Tower, however for clarity with the CUP it will be referred to as the Tower Club CUP amendment, consistent with the name change from Empire Club to Tower Club, during approval of the Phase II CUP for the residential units. It was known as the Alpine Club.

Background

On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the Flagstaff Mountain area. Resolution 20-99 granted the equivalent of a “large-scale” master planned development (MPD) and set forth the types and locations of land use, maximum densities, timing of development, development approval process, as well as development conditions and amenities for each parcel. (The Flagstaff Development Agreement (Agreement) was subsequently amended in March of 2007). See Exhibit E for applicable sections of the Agreement.

On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass, aka Pod A (Exhibit F). As part of the approval, the Tower Club (previously called the Alpine Club and then the Empire Club) was designated as Building One and was granted a height variance to 86 feet with 3.5 and 4.5 stories. At the time of the Village MPD approval, it was anticipated that the Tower Club would be one building consisting of both the Club facilities and the 25 residential units. All projects within the Master Plan area require a Conditional Use Permit for site specific review prior to building permits.

On September 30, 2004, the City Council approved a Final Subdivision Plat for the Village at Empire Pass, Phase I. The Tower Club is located on Lot 9. On January 6, 2011 an amendment to Lot 9 of the plat was approved to address access, parking, and trail easements. The amended plat was recorded on January 4, 2012.

The Planning Commission approved the Tower Club Phase I Conditional Use Permit (CUP) on April 13, 2005 (Exhibit G). The residential component, Tower Club Phase II Conditional Use Permit, was approved by the Planning Commission on February 13, 2008. An extension was granted by the Planning Commission on March 11, 2009 to July 1, 2010. Tower Club Phase II CUP, the residential portion, was never constructed and the approvals have since lapsed. Tower Club Phase I was constructed in 2006.

The Tower Club Phase I included a store as stated in the CUP approval condition, “The store will include a refrigerated case for milk, juice and sodas, and the shelves will have snacks commonly found in a convenience store”. A store of this type is included within the Club building, along with a store for the kid’s camp supplies; however, according to the applicant, it has not seen much success, even when opened to the general public as per a condition of Tower Club Phase II. The store remains open in winter months, but merchandise sold is primarily ski accessories (hats, goggles, gloves, lip balm, sun screen etc.) and snacks, along with some soft goods. Talisker Club found very limited demand for traditional convenience store merchandise.

The application was deemed complete on June 1, 2016 and was scheduled for a July 27th Planning Commission meeting. On July 27th the public hearing was continued to August 10th. On August 10th the item was continued to a date uncertain to allow the applicant time to revise the plans in accordance with review by the Talisker Club review board. Upon receipt of the revised plans Staff re-noticed and re-posted the property for

the October 12th hearing. On October 12th the hearing was continued to November 30th due to time constraints on the agendas it was continued to December 14, 2016. New courtesy letters were mailed and the property was legally noticed and reposted for the December 14th hearing.

Purposes of the RD District

The purpose of the Residential Development (RD) Zoning District is to:

- (A) Allow a variety of Residential Uses that are Compatible with the City's Development objectives, design standards, and growth capabilities,
- (B) Encourage the clustering of residential units to preserve natural Open Space, minimize Site disturbance and impacts of Development, and minimize the cost of municipal services,
- (C) Allow commercial and recreational activities that are in harmony with residential neighborhoods,
- (D) Minimize impacts of the automobile on architectural design,
- (E) Promote pedestrian connections within Developments and between adjacent Areas; and
- (F) Provide opportunities for variation in architectural design and housing types.

Project Description

The applicant requests approval to expand the existing Tower Club private dining area by approximately 1,115 square feet by enclosing an existing patio area, constructing a new patio area, adding 32 indoor seats, and providing approximately 1000 square feet of basement area for ski and boot storage below the new patio (Exhibits A and B). The existing mechanical room will be expanded to include a separate chemical storage area and the store has been shifted to accommodate an access corridor for the locker room. Existing dining room, kitchen and store consist of 2,264 square feet. With the addition there would be 3,379 square feet of area for the dining room, kitchen and store.

The Tower Club is located on Lot 9 of the Village at Empire Pass Phase One Amended Subdivision plat (Exhibits C and D). The building was identified as the first phase of Building One on the Village at Empire Pass MPD. The second phase, Tower Club Phase II CUP, approved for 25 residential units, underground parking, and support residential uses, is known as the Tower Residential. The building is currently known as the Talisker Tower, however for clarity with the CUP it will be referred to as the Tower Club, consistent with the name change from Empire Club to Tower Club.

The existing Tower Club consists of private dining, fitness, concierge, ski lockers, restrooms, circulation, storage, and children's programming services consistent with the Village at Empire Pass Master Planned Development. The existing dining, kitchen and

store consist of 2,264 square feet.

Land Management Code (LMC) and Village MPD Analysis

The proposal complies with lot and site requirements of the RD Zoning District as described in the table below:

	RD Zoning District and/or Village at Empire Pass MPD Requirements
Lot Size	No minimum lot size. Lot 9 is approximately 1.53 acres (66,711 square feet).
Uses/Floor area	The Tower Club Phase I CUP was approved for 8,880 sf of building area, including 2,264, sf of support commercial and 6,616 sf of residential accessory uses, circulation, and storage (fitness and exercise area, locker rooms, restrooms, concierge, children's programming services, storage, mechanical, etc. There are currently 60 seats in the dining room. The proposed CUP amendment is for an addition to the dining room (32 seats) consisting of 1,115 sf. Additional basement area (1,000 sf) for ski locker room/storage area is proposed. Flagstaff MPD Resort Support Commercial uses increases to a total 3,379 square feet. No support commercial uses (based on residential floor area) are proposed with this permit.
Front yard setbacks	LMC requires a minimum of 25 feet to front facing garage, 20 feet to building. No changes to the existing front setbacks are proposed. The existing building is situated more than 20 feet from the front property line.
Rear yard setbacks	LMC requires a minimum of 15 feet. 125 foot setback is proposed to the new addition from the rear property line.
Side yard setbacks	LMC requires a minimum of 12 feet. 20 foot setback is proposed for the addition to the south west property line and a minimum of 40' is proposed to the west property line. No changes are proposed to the building that will impact the east property lines.

Building Height	Zone allows 28 feet (33 feet for pitched roof 4:12 or greater). Village MPD Volumetric and Height Exception allows up to 86 feet above natural grade. Height of main pitched roof (approximately 33' from natural grade) is unchanged and in compliance with the zone height as measured from natural grade. Roof heights of the addition are lower than the main pitched roof. The existing tower element is higher than 33' and complies with the Village MPD Height exception.
Parking	No parking is provided on the site per the approved CUP. The building is not open to the public. The site is accessed from adjacent residential properties by a series of walkways and paths, by ski trails during the winter, and by dial-a-ride shuttle service provided by the Master HOA. The transit center for the Village is located within 100' of the front door. Employees park off-site and are shuttled to the building or take the public bus. Underground parking for the residential uses will be provided when the residential Phase II building is constructed on this Lot.
Architectural Design	All construction is subject to Village at Empire Pass Design Review Board approval and LMC Chapter 15-5 Architectural Design Guidelines with final review conducted at the time of the Building Permit. The addition matches the architectural character and materials of the existing building and has been approved by the Design Review Board. The proposed addition complies with the Village MPD regarding architectural character, articulation, volumetric, and height.
Residential Units	No residential units are proposed. Tower Club Phase II CUP was approved for 25 residential units (up to 67,625 square feet or 33.8 Unit Equivalents). No building permit was approved and the approval expired.

MPD Resort Support Commercial space. Note that the original Tower Club Phase I CUP does not call out the private dining room or the kitchen as Resort Support Commercial or as support commercial, and there is no analysis as to how it was categorized (see more below).	The Flagstaff Annexation and Development Agreement states a maximum of 75 UE (75,000 square feet) of Resort Support Commercial uses are allowed within the Village at Empire Pass MPD (Pods A, B1, and B2). To date, Resort Support Commercial approved: Montage Spa- 35,000 sf Montage retail, restaurants/kitchens, bar, etc. - 28,059 sf Tower Club dining/kitchen/store- 2,264 sf 63,059 sf in Pod B2 (approved) 2,264 sf in Pod A (approved) 1,115 sf in Pod A (requested) Total approved Resort Support Commercial (with Tower Club addition)- 66,438 sf Total remaining Resort Support Commercial (after Tower Club addition)- 8,562 sf
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Resort Support Commercial/support commercial

The dining area, kitchen, and store account for approximately 2,264 square feet of the existing 8,880 square foot building. Other than the store, the areas are not open to the general public and very limited parking was allowed with the Tower Club CUP. Staff researched prior approvals (Village MPD and Tower Club CUP) and did not find analysis as to whether the private dining room and store were to utilize MPD Resort Support Commercial (see Exhibits F and G). The applicant agrees to assign MPD Resort Support Commercial to these uses with this CUP amendment.

The Flagstaff Annexation and Development Agreement states a maximum of 75 UE (75,000 square feet) of Resort Support Commercial uses are allowed within the Village at Empire Pass MPD.

Adding 1,115 square feet of private dining area increases indoor seating capacity by approximately 32 seats for a total of 92 seats and increases the total dining and kitchen area and store to 3,379 square feet. To date a total of 65,323 sf of the 75,000 sf have been approved for the Spa, restaurants and kitchens, bar, and retail at The Montage Resort and Spa. There is sufficient remaining Resort Support Commercial for the 1,115 sf addition. With this addition there will be 8,562 sf of Resort Support Commercial remaining for the MPD (Pods A, B1, and B2).

Analysis of Conditional Use Criteria

Conditional Uses are subject to review according to the following criteria set forth in the LMC 15-1-10(E). Staff's analysis is in *italics*.

(1) Size and location of the Site;

*Lot 9 consists of 66,711 square feet of lot area and is currently developed with the 8,880 square foot Tower Club building and outdoor recreation amenities (swimming pool, hot tubs, etc.), including 2,264 square feet of dining room, kitchen and store. The 1,115 square foot addition proposed on the west side of the existing Tower Club encloses an existing elevated outdoor patio to create additional indoor dining area. Approximately 32 additional indoor seats are provided (60 seats existing) for a total of 92 indoor seats. A new outdoor patio to the west of the addition, also elevated, is proposed, with storage space constructed in the basement area below, expanding the building footprint by approximately 1,000 sf. The addition complies with setbacks, height, density, and parking. The proposed addition of building size and location are appropriate for the site and comply with parameters of the MPD. **No unmitigated impacts.***

(2) Traffic considerations including capacity of the existing Streets in the Area;

*The property is accessed by Empire Club Drive, a private road that connects to Marsac Avenue, a State Highway. A traffic management plan was approved as part of the Technical Reports for the Flagstaff Annexation and Development Agreement to reduce overall traffic generated from the development. The Tower Club Phase I CUP was approved with no parking on site. Owners use the dial-a-ride shuttle service, or the various foot paths, trails, and ski runs. Employees park off site and are shuttled to and from the site. Having access to the dining and recreation amenities within the Village reduces trips on Marsac Avenue. **No unmitigated impacts.***

(3) Utility capacity;

*A final approved storm water, utility, and grading plan is required prior to issuance of a building permit. Adequate water, sewer, electric, gas, and phone services are available for the additional dining use as per the Village Master Plan (see Exhibit H- SBWRD letter). All above ground utility infrastructure (transformers, ground sleeves, telephone boxes, cable boxes, etc.) are to be located on the property. Staff recommends a condition of approval related to the location of dry facilities on the property to ensure that the location of transformers and other utility infrastructure on the property is shown and can be adequately screened. Showing dry utilities on the final plans allows verification from utility companies that the location shown on the plans is viable for their installation. **No unmitigated impacts.***

(4) Emergency vehicle Access;

*Primary emergency access is from Marsac Avenue and Empire Club Drive. Empire Club Drive winds through the Village area with two access points onto Marsac Avenue. The addition will not impact the front drop off area that is utilized for emergency vehicle access as well. **No unmitigated impacts.***

(5) Location and amount of off-Street parking;

The Transit and Parking Management Plan of the Village MPD requires a 25% reduction in parking from what would be normally required by the LMC for residential uses. The proposed uses are support commercial uses and no parking was required for

*the approved Tower Club Phase I CUP. Developing the dining and recreational amenities within the Village was part of the MPD to reduce traffic on Marsac Avenue. The transit center is located within 100 feet of the front door where the HOA dial-a-ride shuttle service has a drop off point. Employees park off-site and are shuttled to the building. Owners of residential units within the MPD use the shuttle service, ski trails in winter, and walking paths and sidewalks in the summer. No off-street parking is proposed with the addition. Parking for the future residential phase will be provided within a parking structure under the residential building. **No unmitigated impacts.***

(6) Internal vehicular and pedestrian circulation system:

*Access is from Empire Club Drive, a private street. A drop-off area is located in the front of the building and the Village transit center is located within 100' of the front door. A series of trails, steps, walkways, paths, and ski runs provides pedestrian access to the building in summer and winter. **No unmitigated impacts.***

(7) Fencing, Screening, and landscaping to separate the Use from adjoining Uses;

*The site is currently landscaped with large trees and shrubs, with trees along the ski run existing prior to construction and providing a separation between the club uses and adjacent residential uses. A final landscape plan is required prior to building permit issuance. The proposed landscaping shall maintain a buffer between the Tower Club building and residential buildings and adjacent ski run, to the greatest extent possible. Landscaping and irrigation shall be water efficient, utilizing drought tolerant plantings and limited turf area, similar to what currently exists on the site. The landscape plan shall meet defensible space requirements to the satisfaction of the Building Department. Existing fencing screens the delivery area and trash enclosure from public view. The swimming pool and outdoor patio around it are also fenced. **No unmitigated impacts.***

(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots;

*This building is one of nine lodge buildings clustered within Pod A approved with the Village MPD. The existing building is two stories with an architectural tower element. The future residential phase of this building was approved for twenty five units with three, four, and five story elements. An underground parking structure will eventually be constructed with the residential portion. All zone required setbacks will be maintained with the addition located to the west of the existing patio and setback from the property line on the west by at least 40 feet, setback a minimum of 125 feet from the north property line, and maintaining 20 to 25 feet from the east property line. Within the Village, there are five existing buildings of a similar size, height, and volumetric, with three more still to be constructed and a fourth currently under construction as One Empire Pass. The mass of the addition is oriented towards the west and the adjacent ski run and is compatible with the mass, bulk, and orientation of adjacent buildings. **No unmitigated impacts.***

(9) Usable Open Space: *Both passive and active Open Space is provided in excess of 88% within the annexation boundary. The individual lots were not required to provide open space. **No unmitigated impacts.***

(10) Signs and lighting;

*All new signs and exterior lighting must be in conformance with the Park City codes and the Flagstaff Mountain Resort Design Guidelines. Signs require a separate sign permit issued by the City. All exterior lighting is designed to be down directed and shielded. Any existing exterior lighting not in compliance with the Code shall be modified prior to final certificate of occupancy. **No unmitigated impacts.***

(11) Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;

*In the immediate area, there are five large multi-story residential condominium buildings (Silver Strike, Flagstaff (aka Snowberry), Shooting Star, Arrowleaf, and the future Tower Club residential), as well as the two story Larkspur town homes and Paintbrush PUD style homes (single-family detached homes). The master developer is coordinating design elements for all phases of the project and all developments require approval by the Flagstaff Architectural Design Review Board. Staff reviewed the proposed addition for compliance with the architectural character, volumetric diagram, and height of the existing building and finds that the addition is compatible and complies with the parameters for mass, scale, style, design, and architectural detailing. The addition is located to the west of the existing building, separated from adjacent buildings by open space, ski trails, and existing vegetation. **No unmitigated impacts.***

(12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;

*All uses, with the exception of the outdoor patio dining, BBQ prep, and outdoor pools, are located inside the residential building and there are no expected additional impacts on adjacent residents/visitors or Property Off-Site. Winter hours are 7 days a week from 7 am to 7 pm. The dining room, including the outdoor seating, is open for continental breakfast 5 days a week in the summer. The fitness facility and pool are open from 7 am to 3 pm. During special events, outdoor uses typically end by 9 pm in the summer. Staff recommends conditions of approval related to screening of mechanical equipment. **No unmitigated impacts.***

(13) Control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas;

*Service and delivery volumes to the building will increase due to additional seating capacity (32 Seats) in the dining room; however the applicant does not anticipate additional trucks or more frequent service and no additional loading areas are proposed. Trash pickup occurs off of the pull out in front of the building. Existing trash areas are screened with solid fencing. **No unmitigated impacts.***

(14) Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities;

The United Park City Mines ("UPCM") owned property is currently subject to a foreclosure action by Wells Fargo Bank. Talisker Club leases the property from UPCM. Operation of the property and Talisker Club is currently under control of a court

*appointed receiver. It is anticipated that ownership of Talisker Club and the property will transfer to REDUS Park City LLC, (a Wells Fargo controlled entity) prior to start of construction. The dining room and amenities within the building are for the private use by members (residential owners) and their guests. **No unmitigated impacts.***

*(15) Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site. There are no Environmentally Sensitive Lands within or adjoining the site. The existing building and proposed addition, as with most of the Village, are located on the flatter slopes within the development Pod. The site is currently developed with the Tower Club building and outdoor pools, paths, patios, and existing landscaping. **No unmitigated impacts.***

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notices were mailed to property owners within 300 feet on September 28 and October 30, 2016. A legal notice was published in the Park Record on September 24, 2016 and again on October 26th. No public input has been received at the time of this report.

Alternatives

1. The Planning Commission may approve the amended Conditional Use Permit for Tower Club Phase 1 as conditioned or amended, or
2. The Planning Commission may deny the amended Conditional Use Permit for Tower Club Phase 1 and direct staff to make Findings for this decision, or
3. The Planning Commission may continue the discussion on the Conditional Use Permit for Tower Club Phase 1 to a date certain to allow the applicant and Staff to provide additional information or analysis.

Significant Impacts

There are no significant fiscal or environmental impacts from this application that have not been mitigated with conditions of approval.

Recommendation

Staff recommends Planning Commission hold a public hearing, consider public input, and approve the amended Tower Club Phase I Conditional Use Permit to expand the Tower Club dining room and basement areas pursuant to the findings of fact, conclusions of law, and conditions of approval as outlined below:

Findings of Fact

1. The Tower Club Phase 1 Conditional Use Permit (aka Empire Club Phase I Conditional Use Permit) is located at 8680 Empire Club Drive.
2. The property is located in the Residential Development (RD-MPD) zoning district on

Lot 9 of the Village at Empire Pass Phase One Subdivision.

3. The property is located within Pod A of the Village at Empire Pass Master Planned Development and is subject to the Flagstaff Mountain Annexation and Development Agreement.
4. Empire Club Drive is a private street with access to Marsac Avenue, which is a public street.
5. The Village at Empire Pass Phase One Subdivision was approved by Council on September 30, 2004, and recorded at Summit County November 24, 2004.
6. Lot 9 was amended with the First Amendment to the Village at Empire Pass Phase I Lot 9 subdivision plat on January 6, 2011 and recorded at Summit County on January 4, 2012.
7. Lot 9 consists of 66,711 square feet of lot area and is currently developed with the 8,880 square foot Tower Club building. The building contains a private dining room with 60 indoor seats, kitchen area, small store, residential support amenities, circulation, and storage, in addition to an outdoor patio and other outdoor recreation amenities (swimming pool, hot tubs, etc.).
8. The Flagstaff Mountain Annexation and Development Agreement was approved by City Council per Resolution No. 99-30 on June 24, 1999 and amended on March 2, 2007.
9. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement set forth maximum project densities (residential and support commercial), location of densities, and developer-offered amenities for the annexation area.
10. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass (Village MPD) (Pods A and B1) within the Flagstaff Mountain Annexation and Development area. The Village MPD (known as Mountain Village) was later amended to include Pod B2 (Montage).
11. The Mountain Village MPD (Pods A, B1 and B2) was approved for a maximum of 785 UE of multi-family (550 multifamily units) and 16 single family units. No residential uses are proposed with this amended Conditional Use Permit and no change in residential UE is proposed.
12. The Flagstaff Annexation and Development Agreement approved a maximum of 75,000 square feet (sf) of Resort Support Commercial uses for Village MPD (Pods A, B1, and B2).
13. To date 65,323 sf of Resort Support Commercial uses have been approved within Pods A and B2) as follows:
 - Montage Spa- 35,000 sf
 - Montage retail, restaurants/kitchens, bar, etc. -28,059 sf
 - Tower Club dining/kitchen/store- 2,264 sf
 - Total approved Resort Support Commercial (with Tower Club addition) - 66,438 sf
14. The existing dining room, kitchen and store consist of 2,264 square feet and were permitted with the Tower Club CUP Phase I building (2,173 square feet (sf)) of private dining uses, including the kitchen, and 91 square feet (sf) of convenience store). The approval for the Tower Club CUP does not provide analysis or describe whether the private club dining room, kitchen and store were consider Resort Support Commercial, support commercial, or residential accessory commercial.

15. A total of 1,115 sf of Resort Support Commercial uses are requested with this CUP amendment for an addition to the dining room and kitchen.
16. The applicant stipulates to the conditions of approval to allocate MPD Resort Support Commercial for the dining room, kitchen and store.
17. No support commercial uses based on residential floor area are proposed with this permit.
18. With approval of the addition, a total of 66,438 sf of Resort Support Commercial uses will be approved and 8,562 sf remain for use within the Village MPD (Pods A, B1 and B2).
19. On May 17, 2016, the Planning Department received an application for an amendment to the Tower Club Phase I Conditional Use Permit for approval to expand the existing Tower Club dining area by 1,115 square feet by enclosing an existing elevated outdoor patio area, constructing a new elevated patio area to the west, and providing approximately 1,000 square feet of ski/boot locker room in the basement area below the new patio. The request increases indoor seating capacity by approximately 32 seats for a total of 92 seats and increases the MPD Resort Support Commercial from 2,264 square feet to 3,379 square feet. The building footprint increase by approximately 1,000 square feet for the expanded basement and new outdoor patio.
20. There are sufficient remaining Resort Support Commercial and support commercial uses available within the Village at Empire Pass MPD (Pods A, B1 and B2) for the proposed addition.
21. The application was deemed complete on June 1, 2016 upon receipt of additional materials. The application was amended on September 23, 2016.
22. The property is subject to subdivision plat notes that require compliance with RD zone setbacks, approval of a Conditional Use Permit for each building prior to issuance of a building permit, a declaration of condominium and a record of survey plat prior to individual sale of units (for residential uses), membership in the Empire Pass Master HOA, identifies Empire Club Drive as a private street, plats a 20' snow storage easement along the street frontages, requires water efficient landscaping, and includes other utility and maintenance provisions.
23. The Transit and Parking Management Plan requires a 25% reduction in parking from what would be normally required by the LMC for residential uses. The Tower Club Phase I Conditional Use Permit was approved with no on-site parking and no on-site parking is proposed with the addition.
24. The elevation and climate of the Flagstaff area creates a harsh environment for utilities and their maintenance.
25. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass, aka Pod A. The Tower Club Phase I is part of Building 1, the remaining portion of this building was approved for 25 residential units as the Tower Club Phase II. The residential portion has not yet been constructed and the CUP approval and extensions have expired. Underground parking will be required with the residential building.
26. On September 30, 2004, the City Council approved a Final Subdivision Plat for the Village at Empire Pass, Phase One. The plat was recorded on November 24, 2004. An amended plat for Lot 9 was approved on January 6, 2011 and recorded at

Summit County on January 4, 2012. The Tower Club Phase I building and this proposed addition are located on amended Lot 9. Amended Lot 9 consists of approximately 1.53 acres (66,711 square feet).

27. The Tower Club Phase I Conditional Use Permit was approved by the Planning Commission on March 11, 2009, for approximately 8,880 square feet. There are approximately 2,264 sf of private dining club, kitchen, and small convenience store uses and 6,616 square feet of residential (and resort) accessory uses (ski lockers, recreation amenities, kids club and programming, etc.), circulation, and storage. A separate building was constructed on the site for use as a transit center for the Empire Pass transportation dial a ride shuttle.
28. The Tower Club Phase I approval required the store as stated in the CUP approval condition, "The store will include a refrigerated case for milk, juice and sodas, and the shelves will have snacks commonly found in a convenience store".
29. A store of this type is included within the Club building, along with a store for the kid's camp supplies; however it has not seen much success, even when opened to the general public as per a condition of Tower Club Phase II.
30. The store will remain open in winter months, but merchandise sold is more ski accessories (hats, goggles, gloves, lip balm, sun screen etc.) and snacks, along with some soft goods). Talisker Club found limited demand for traditional convenience store merchandise.
31. The maximum building height in the RD District is 28 feet (33 feet with a pitched roof). A height exception to 86 feet above natural grade was granted for the existing building and residential building per the Village at Empire Pass Master Plan. The existing building includes a tower element that has a height of approximately 50 feet above natural grade.
32. The main pitched roof remains at approximately 33' from natural grade. Roof elements of the addition have a lower building height. All roof elements comply with the zoning requirement except the tower element that complies with the height exceptions approved with the MPD.
33. The addition has been reviewed and approved with conditions by the Empire Pass Design Review Board.
34. The proposed addition complies with the height, setbacks, and volumetric diagrams approved with the MPD.
35. Yard setbacks within the RD zone are twenty feet (20') in the front (25 feet to front facing garage), fifteen feet (15') to the rear, and twelve feet (12') on the side. Setbacks are the minimum distance between the closest of the following: property lines, platted streets, or existing curb or edge of street.
36. The building complies with these setback requirements with minimum proposed setbacks of 20' front (south), 40' side (west), and 125' rear (north) for new construction. No changes are proposed to existing 20' minimum setbacks on the east side.
37. The existing building is also known now as the Talisker Club.
38. As conditioned, the proposed amendments to the Tower Club Phase I Conditional Use Permit are consistent with the approved Master Planned Development for the Village at Empire Pass.
39. A Master Homeowners Association document and Maintenance Agreement for the

Mountain Village were reviewed and approved by the City prior to issuance of building permits for buildings within the Mountain Village. This property is also subject to these documents.

Conclusions of Law

1. The proposed amendments to the Tower Club Phase 1 CUP are consistent with the Flagstaff Annexation and Development Agreement, The Village at Empire Pass Master Planned Development, and the Park City Land Management Code.
2. The proposed uses, as conditioned, are compatible with the surrounding structures in use, scale, mass, and circulation.
3. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval

1. All standard conditions of approval apply to this Conditional Use Permit.
2. A final landscape plan is required prior to building permit issuance. The landscape plan shall indicate trees to remain, trees to be relocated, and trees to be replaced in kind. The proposed landscaping shall maintain a buffer between the Tower Club building and residential buildings and adjacent ski run, to the greatest extent possible. Landscaping and irrigation shall be water efficient, utilizing drought tolerant plantings and limited turf area, similar to what currently exists on the site. The landscape plan shall meet defensible space requirements to the satisfaction of the Building Department.
3. All exterior lights must conform to the City lighting ordinance and the Flagstaff Mountain Resort Design Guidelines. Non-complying exterior lighting shall be brought into compliance with the Land Management Code prior to issuance of a certificate of occupancy.
4. All exterior signs require a separate sign permit reviewed by the Planning and Building Departments.
5. Materials, color samples, and final design details must be approved by Staff prior to building permit issuance for consistency with the plans reviewed by the Planning Commission.
6. The final building plans and construction details for the project shall meet substantial compliance with the drawings reviewed by the Planning Commission on December 14, 2016.
7. Utility and grading plans, including storm water drainage plans, must be approved by the City Engineer prior to Building Permit issuance.
8. All utility facilities must be located on site. A plan must be provided at the time of the building permit application showing all proposed utility locations, including dry utilities. The applicant shall provide verification that the utility plan is viable and proposed utility boxes can be screened.
9. All exterior mechanical equipment shall be painted and/or otherwise screened and shielded from public streets. All wall and roof top vents and protruding mechanical shall be painted to match the adjacent wall or roof and/or screened from public view.
10. A final Construction Mitigation Plan must be approved by the Planning and Building Departments prior to issuance of a building permit.

11. Conditions of approval of the Village at Empire Pass MPD shall continue to apply.
12. Conditions of approval of the Flagstaff Annexation and Development Agreement shall continue to apply.
13. Conditions of approval of the Tower Club Phase I CUP continue to apply.
14. A total of 3,379 sf of MPD Resort Support Commercial shall be allocated to this property, to include the 1,115 square feet dining room addition and the 2,264 square feet of existing dining room, kitchen, and store.

Exhibits

- Exhibit A – Project Description and Design Review Board approval
- Exhibit B – Site Plan, Floor Plans, and Elevations
- Exhibit C – Existing conditions and photos
- Exhibit D – Subdivision plat
- Exhibit E – Flagstaff Annexation and Development Agreement sections
- Exhibit F– Village at Empire Pass MPD approval minutes, Volumetric, and map
- Exhibit G – Tower Club Phase I (CUP) approval, minutes April 13, 2005
- Exhibit H – SBWRD letter
- Exhibit I – POD B2 Empire Pass MPD Action letter

Talisker Club Dining Room Addition
CUP Amendment Application
September 23rd, 2016

In 2005, PCMC granted a Conditional Use Permit for Phase 1 of the “Empire Club”, a private club building providing dining and fitness facilities, along with concierge services and children’s programming for Talisker Club members and guests. (Staff Report in support of CUP dated 4/13/05.) This building was completed and is operated today as the “Talisker Tower”.

In 2008, PCMC granted a Conditional Use Permit for “Empire Pass Tower Club Residential”, Phase 2 of the Empire Club. With changing market conditions, this Phase 2 expansion never proceeded. Meanwhile, Talisker Club has found the demand for seating at the Talisker Tower has grown considerably and currently exceeds capacity during peak winter periods.

The current application is for a dining room expansion of approx. 1,000 sf that encloses the majority of the existing patio, along with construction of a new patio. The proposed addition also includes a basement locker room of approximately 1,000 sf for storage of skis and boots, and a separate 300 sf pool chemical storage room.

A future residential tower on this site along with additional club amenity space is still contemplated, but not part of the current application.

- The proposed use fits in with the surrounding use since it is an expansion of the existing use which was contemplated and required under the Flagstaff DA
- Provision of additional dining room seating at the Tower will reduce traffic related to Empire Pass residents travelling to other dining facilities within Deer Valley and Park City.
- The proposed use is consistent with the Flagstaff DA and Empire Pass MPD.
- As the only dining facility in Empire Pass Village the current facility and proposed expansion are complimentary to the surrounding residential land use.

- The proposed use is suitable for the site since it is an expansion of the existing use that was contemplated and required under the Flagstaff DA.
- The proposed use includes an outdoor grill (replacing the current outdoor grill), an outdoor gas fireplace (replacing the current outdoor gas fireplace), and patio seating (replacing the current patio seating). The noise and odor associated with these facilities and uses are negligible and no greater than those of the existing facilities being replaced.
- The Tower typically runs seven days a week from 7 am to 7 pm in winter season, with shorter operating hours in shoulder and summer season. When demand warrants, the Tower remains open until 10 pm or midnight. Current staffing on peak days is approximately 10 employees. Peak day staffing will grow to approximately 12 employees following completion of the addition.
- In accordance with the Flagstaff DA, there is no guest parking at the Talisker Tower. The Empire Pass Dial-A-Ride service is available to guests not skiing or walking to the property. Employees park offsite and arrive at work by Talisker Club shuttle.

On May 6th, the proposed addition was reviewed by the Empire Pass Design Review Board and received Preliminary and Final DRB approval, subject to typical conditions. Letter of approval from DRB was previously provided. An updated approval letter reflecting the basement locker room will be submitted once received.

Under Section 2.2.1.5 of Amended and Restated Flagstaff DA, the Mountain Village may include up to 75,000 sf or Resort Support (“RS”) Commercial uses. Of Mountain Village projects to date, the Montage CUP is the only project specifically referencing RS Commercial.

Uses within the existing Tower considered RS Commercial are:

Club Room and Kitchen	2,173 sf
Store	<u>91 sf</u>
Total	2,264 sf

The balance of the existing Tower is storage, circulation, fitness, lockers, restrooms, child care and BOH space, all of which should be considered Accessory uses.

The Declarant, REDUS Park City LLC, has previously submitted analysis of RS Commercial space built to date under the Flagstaff DA. As discussed, a review of the Montage Spa has confirmed that much of the space within the “35,000 sf Spa” is in fact Residential Accessory use (Indoor Pool Area, Fitness, Lockers & Restroom, and Circulation). On the previously submitted spa plan 13,859 sf have been identified as Resort Support Commercial.

Max RS Commercial	75,000 sf
Montage Spa RS Commercial	(13,859)
Montage Restaurants RS Commercial	(28,059)
Expanded Tower RS Commercial Uses	<u>(3,379)</u>
RS Commercial for Future Projects	29,703 sf

Additional questions were raised in Staff email of June 3rd.

- An existing conditions site plan has been provided showing utility locations. Utility services to the property are sized in anticipation of a six storey condo building to be built at a future date. The additional utility load based on the proposed addition is negligible and well within available capacity.
- The Questar gas meter will need to be relocated to accommodate the addition. This work will be performed by Questar subsequent to CUP approval.
- Should an additional electrical panel be required, this will be determined prior to Building Permit submission.
- The proposed addition does not materially change the drainage pattern. The property drains to the northwest towards an existing catch basin adjacent the bottom of the Silver Strike Chair.

- SBWRD has reviewed plans for the proposed addition. Previous SBWRD impact fee calculations have been submitted. Updated plans will be submitted to SBWRD. Should impact fee calculations change, revised calculations will be submitted to PCMC.
- Plans were reviewed and discussed with submitted to PCFSD on 6/27 with no concerns identified. Revised plans showing enlarged basement area will be submitted to PCFSD.
- The Building Department has been contacted regarding this project. Any issues raised will be addressed on the Building Permit submission.
- Delivery companies deliver through the front door during off peak times. There are approximately six short-term parking spaces out front. The proposed addition not impact deliveries.
- Any areas of contaminated soil within the Empire Village area were remediated prior to construction of the current Talisker Tower.
- The proposed addition will require import of approximately 400 cy of fill. If possible, import fill will be sourced from another construction site within the Flagstaff Annexation area.

The underlying land is currently owned by United Park City Mines Company ("UPK"), and is subject to a long term ground lease to Talisker Club LLC. These lands are subject to a foreclosure action. The court appointed receiver, Cynthia Nelson, has full authority with respect to Talisker Club, and with respect to certain UPK lands, including the underlying parcel. The 2015 court order confirming the powers of the Receiver was previously provided. The receiver has signed the authorization confirming authority of Talisker Club to apply for the amendment to the CUP.

Talisker Club wishes to amend the current Conditional Use Permit to incorporate the proposed addition to the Talisker Tower.

EMPIRE PASS

September 1, 2016

DESIGN REVIEW BOARD

Mr. John Shirley
Think Architecture
5151 S. 900 E. Ste 200
SLC, UT 84117

RE: Tower Club Expansion
8680 Empire Club Drive
Empire Pass Development
Amended Plan Design Approval

Dear Mr. Shirley,

Thank you for your recent submittal regarding the proposed expansion to the Tower Club to the Empire Pass Design Review Board (the DRB) requesting approval of the amended plans dated August 25, 2016.

The requested changes reviewed by the DRB on the August 25, 2016 plans include:

1. The basement square footage increases from 700 square feet to 1,310 square feet.
2. Windows have been added to the stone wall that faces the pool.
3. The western section of the patio will expand approximately 7 feet to the south.
4. The revised patio will preserve the large spruce, but will impact one small spruce.
5. Applicant will replace impacted spruce with a tree of equivalent size in the general location where removed.

The DRB reviewed the applicant's amended revisions and approved the revisions listed above. Previous conditions of approval from May 6, 2016 review still apply.

Again, we thank you for your submittal and look forward to working with you and your team as the process continues. Feel free to contact our office at 435-333-3700 with any questions or concerns you might have, or for further assistance regarding the Design Review process.

Respectfully,



Trish Waterman, Empire Pass MOA Manager
On behalf of the Empire Pass Design Review Board



TOWER CLUB ADDITION

DEER VALLEY, PARK CITY

AUGUST 25, 2016



SITE PLAN

1" = 30'-0"

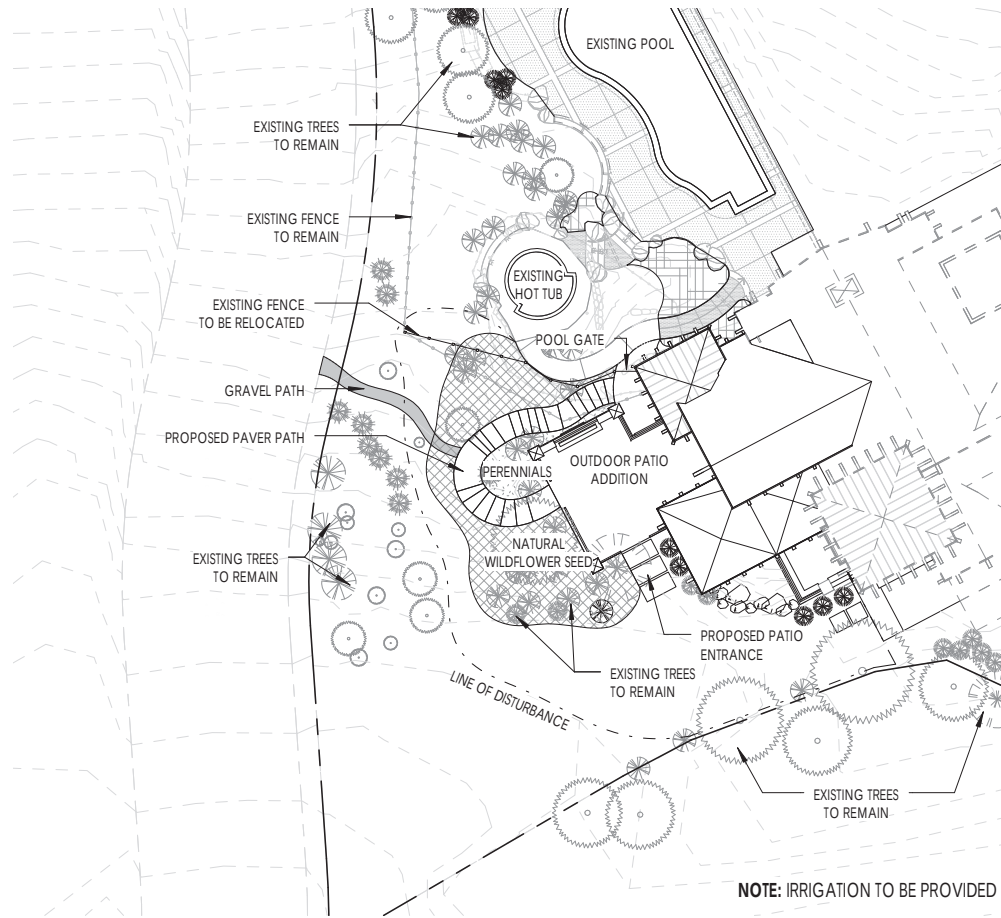
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D101



TOWER CLUB ADDITION

DEER VALLEY, PARK CITY

AUGUST 25, 2016



LANDSCAPE PLAN - DD

1" = 30'-0"

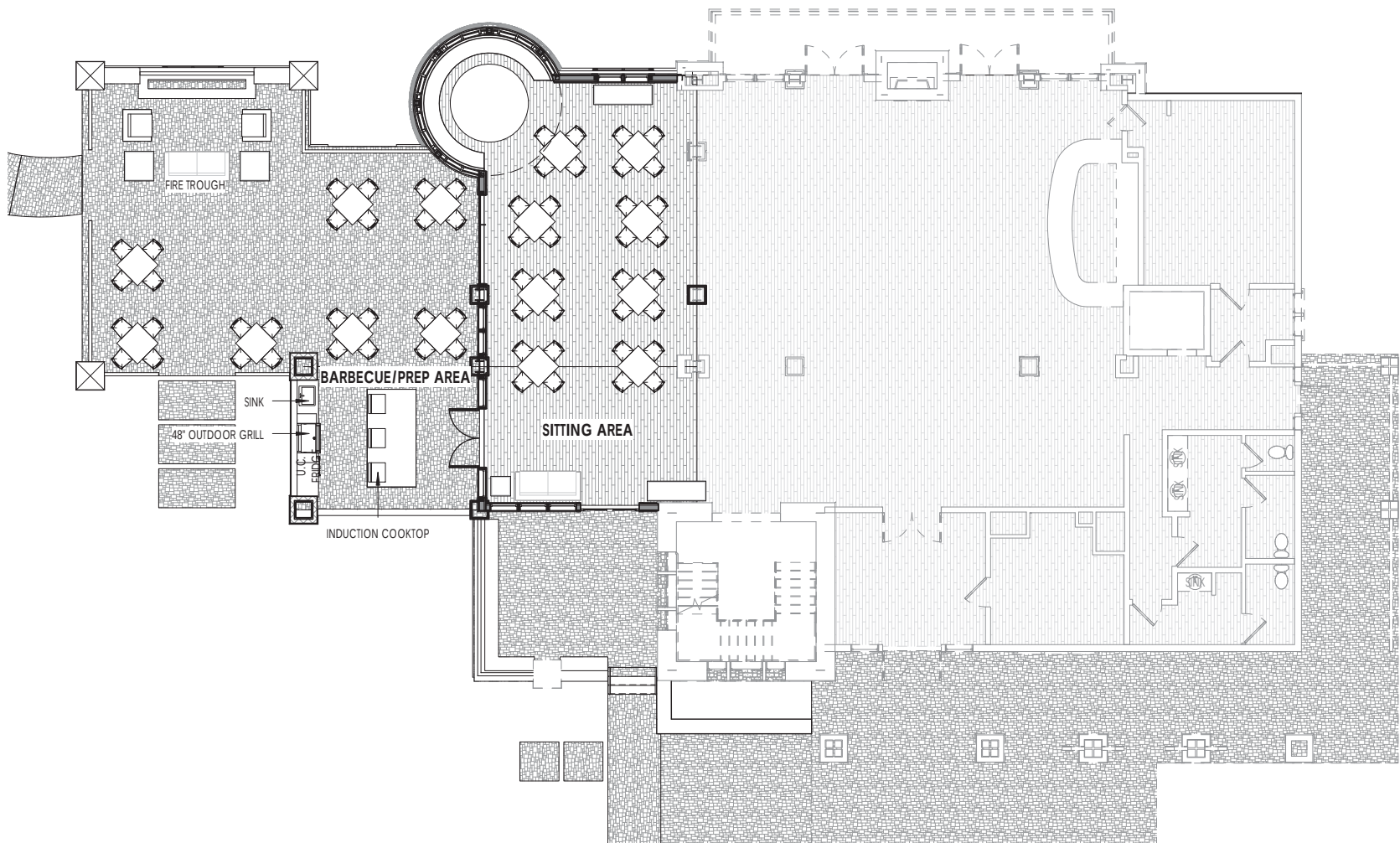
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TOWER CLUB ADDITION

DEER VALLEY, PARK CITY

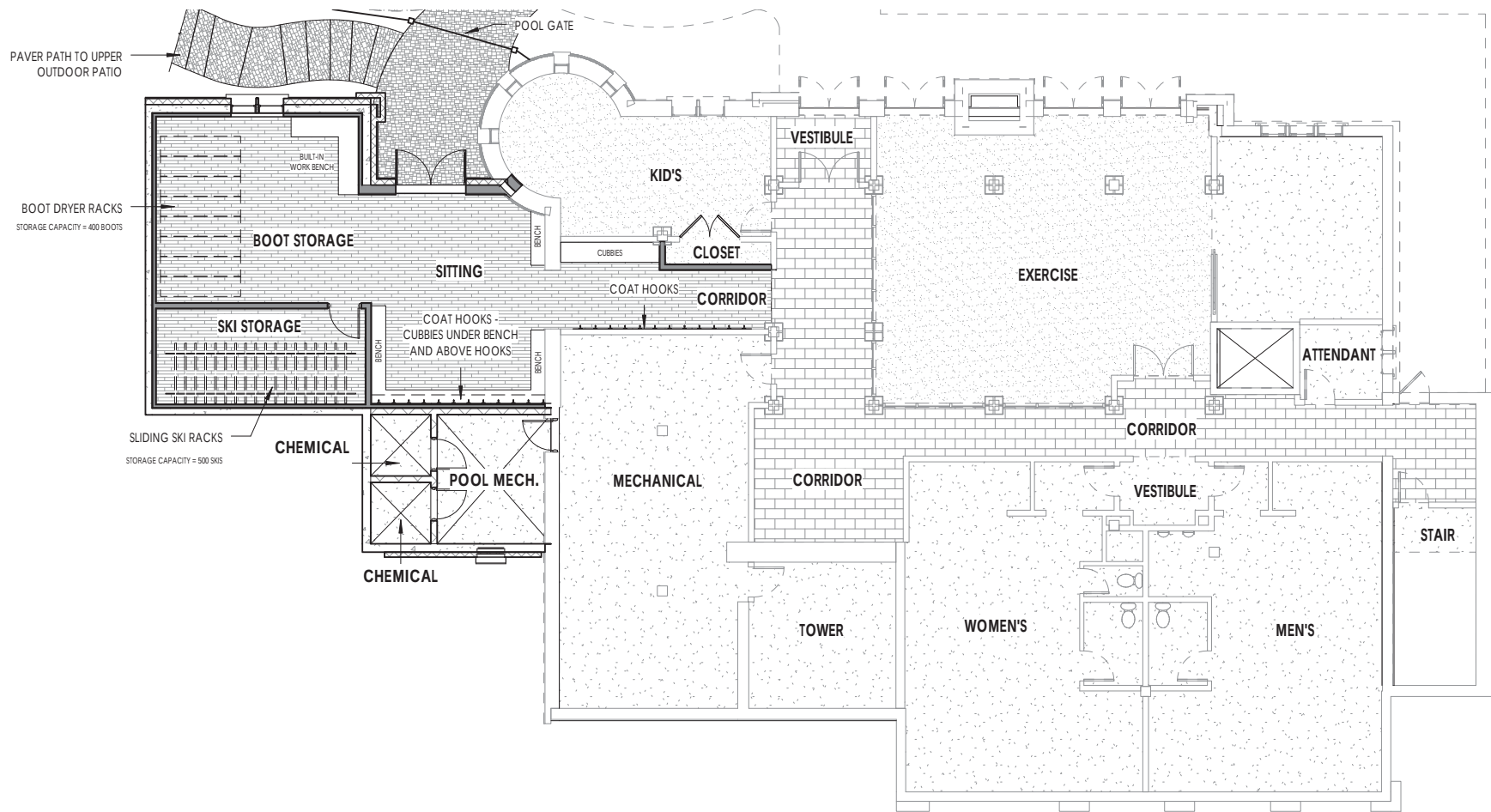
AUGUST 25, 2016



TOWER CLUB ADDITION

DEER VALLEY, PARK CITY

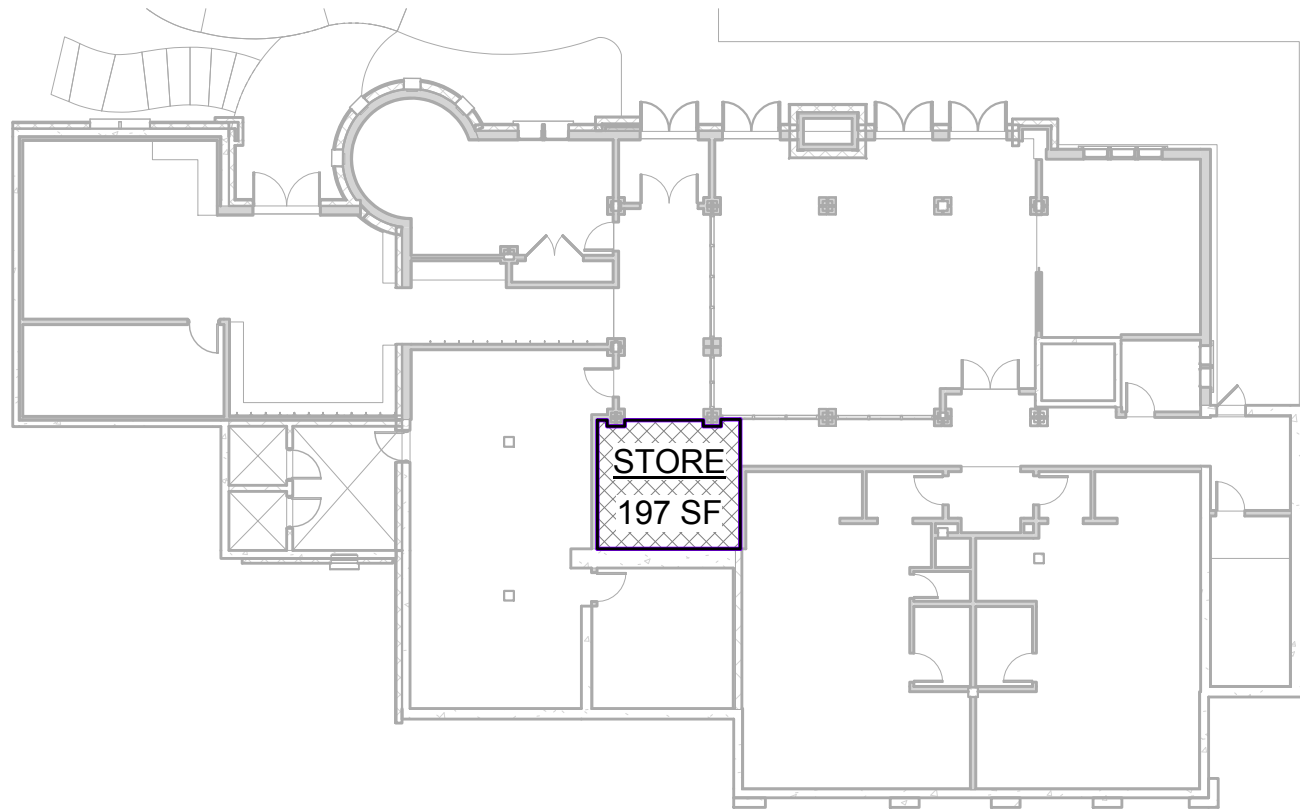
AUGUST 25, 2016



TOWER CLUB ADDITION

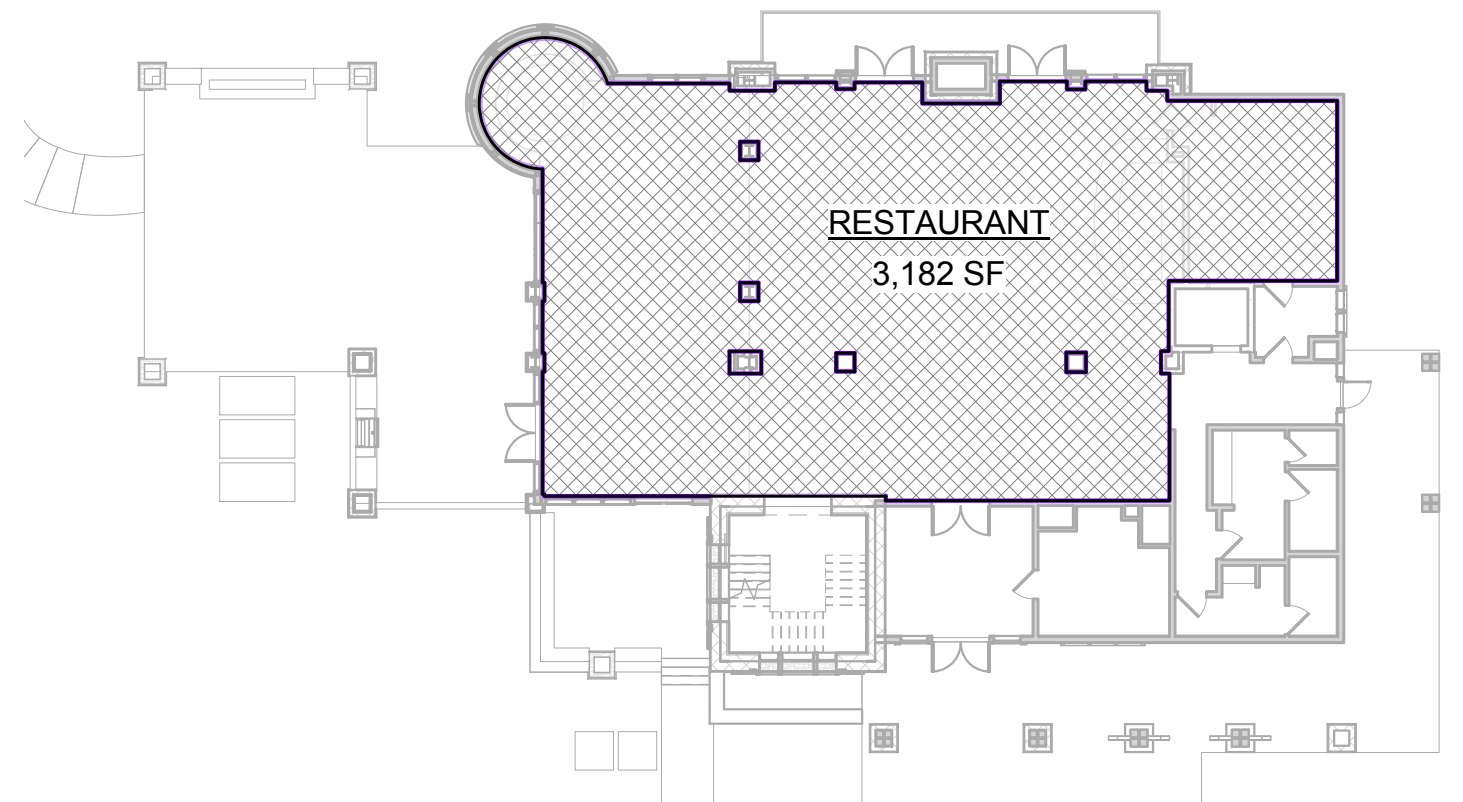
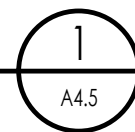
DEER VALLEY, PARK CITY

AUGUST 25, 2016



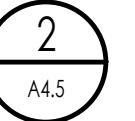
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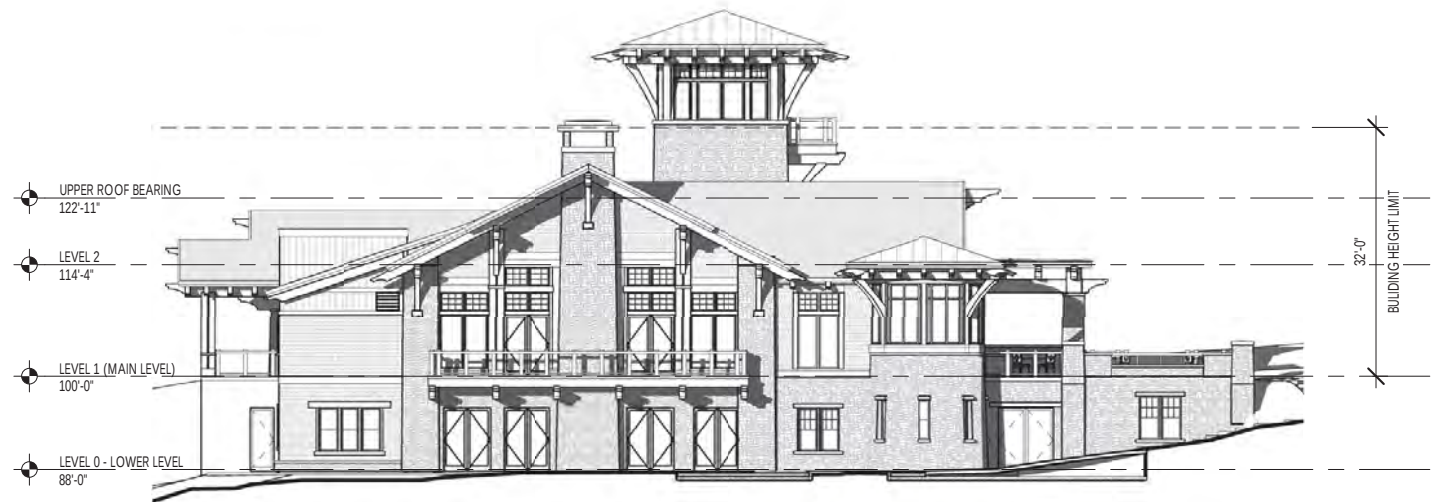
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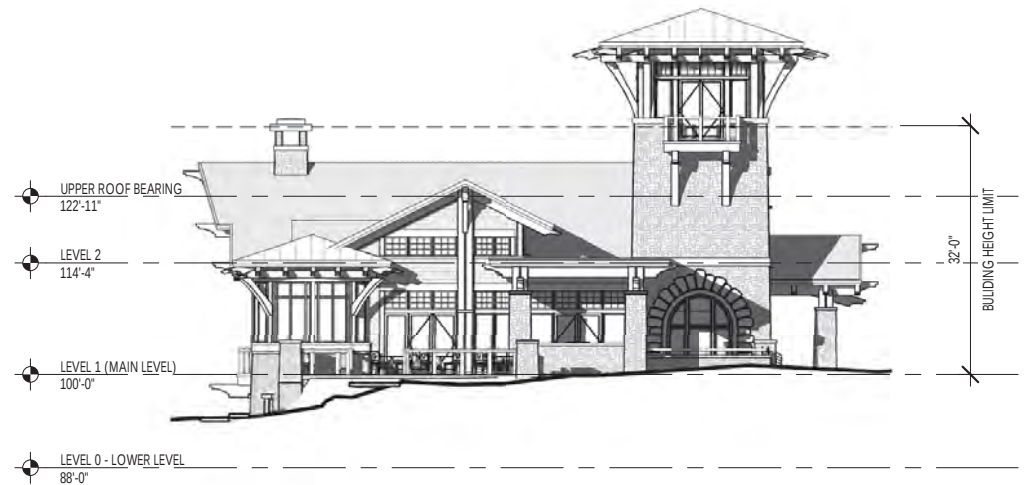




TOWER CLUB ADDITION

DEER VALLEY, PARK CITY

AUGUST 25, 2016



TOWER CLUB ADDITION

DEER VALLEY, PARK CITY

AUGUST 25, 2016



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AUGUST 25, 2016



TOWER CLUB ADDITION

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TOWER CLUB ADDITION

DEER VALLEY, PARK CITY

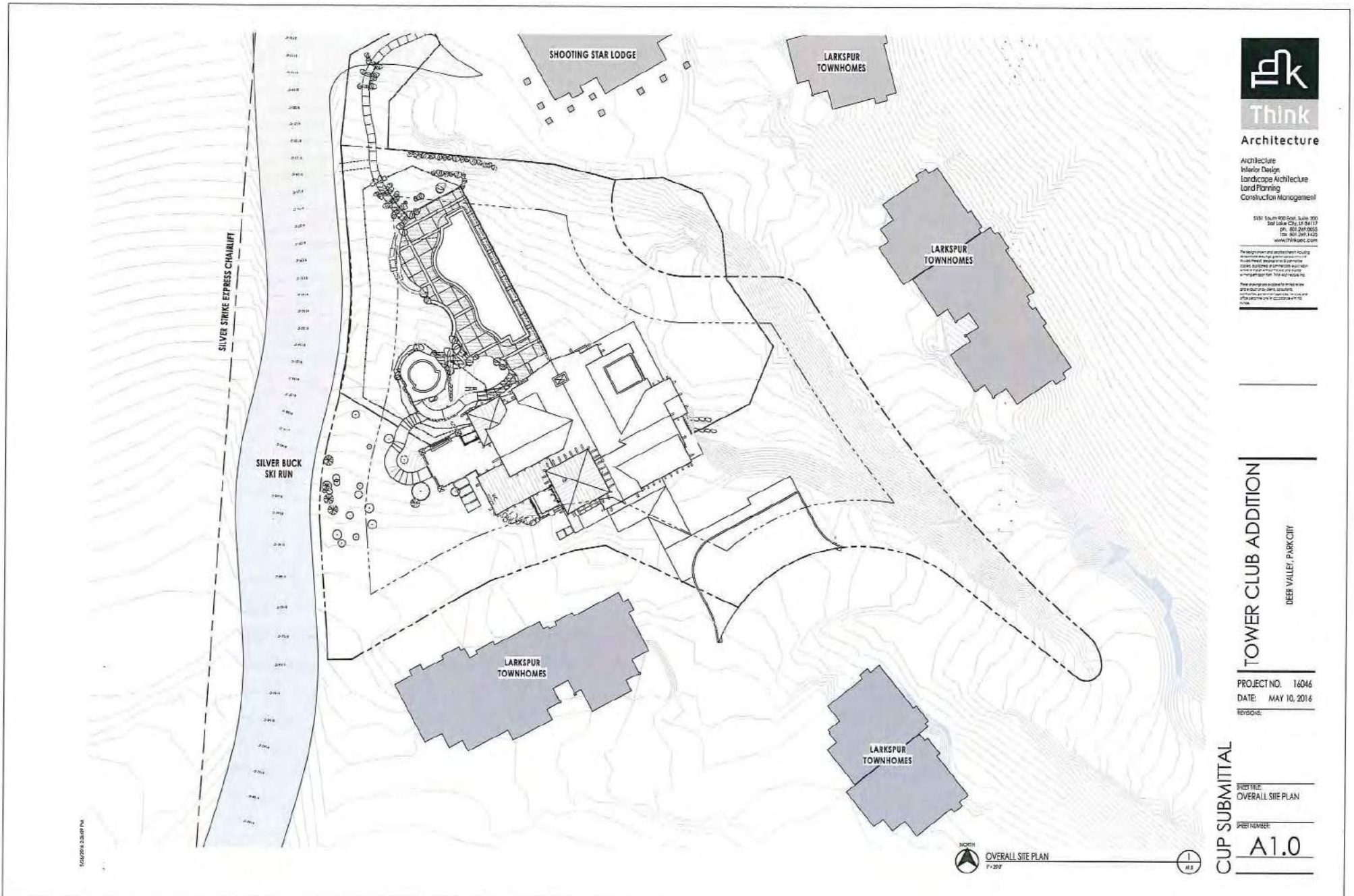
AUGUST 25, 2016



TOWER CLUB ADDITION

DEER VALLEY, PARK CITY

AUGUST 25, 2016





BASEMENT LEVEL FLOOR PLAN
1/4" = 1'-0"

INDICATES WALL TYPE DESIGNATIONS
SEE SHTS A&B AND A&B FOR WALL TYPES



HART HOWERTON
ARCHITECTS
1000 SOUTH 1000 WEST
SALT LAKE CITY, UT 84143
PHONE: 313.444.4444
FAX: 313.444.4444
WWW.HARTHOWERTON.COM

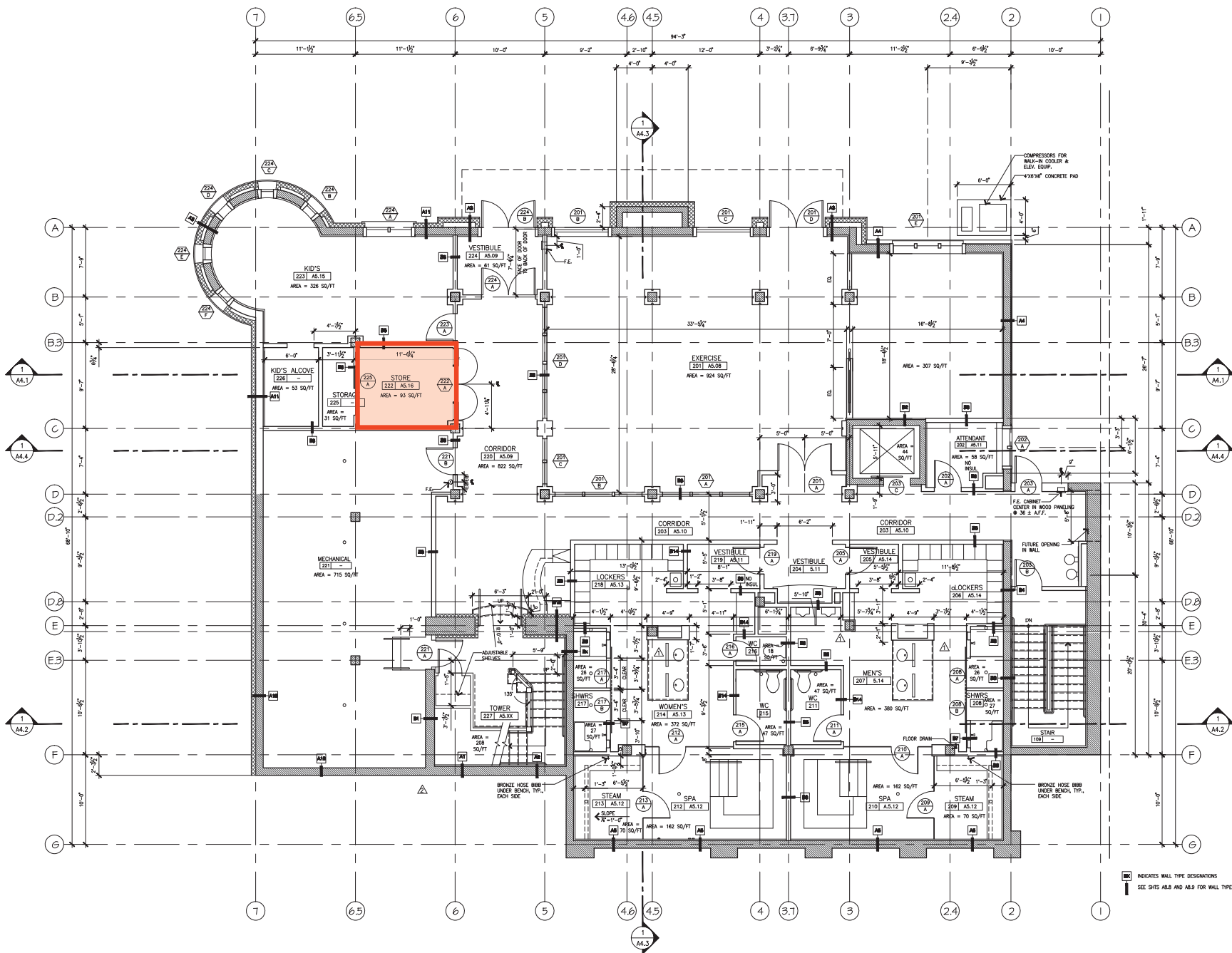
EMPIRE PASS CLUBHOUSE
Deer Valley, Park City, Utah

PROJECT NO.: 1000000000
SCALE: 1/4" = 1'-0"
DATE: 02/20/16
ISSUE: 02/20/16
DESIGNED BY: JH
CHECKED BY: JH
DATE FOR CONSTRUCTION: 02/20/16

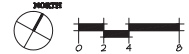
NO.	DATE	REVISION
1	02/20/16	ISSUE FOR CONSTRUCTION

EMPIRE PASS CLUBHOUSE
BASEMENT LEVEL
FLOOR PLAN

PROJECT NO.: 1000000000
DRAWN BY: JH
CHECKED BY: JH
DATE FOR CONSTRUCTION: 02/20/16
DRAWING NO.: **A2.1.1**



LOWER LEVEL FLOOR PLAN
1/4" = 1'-0"



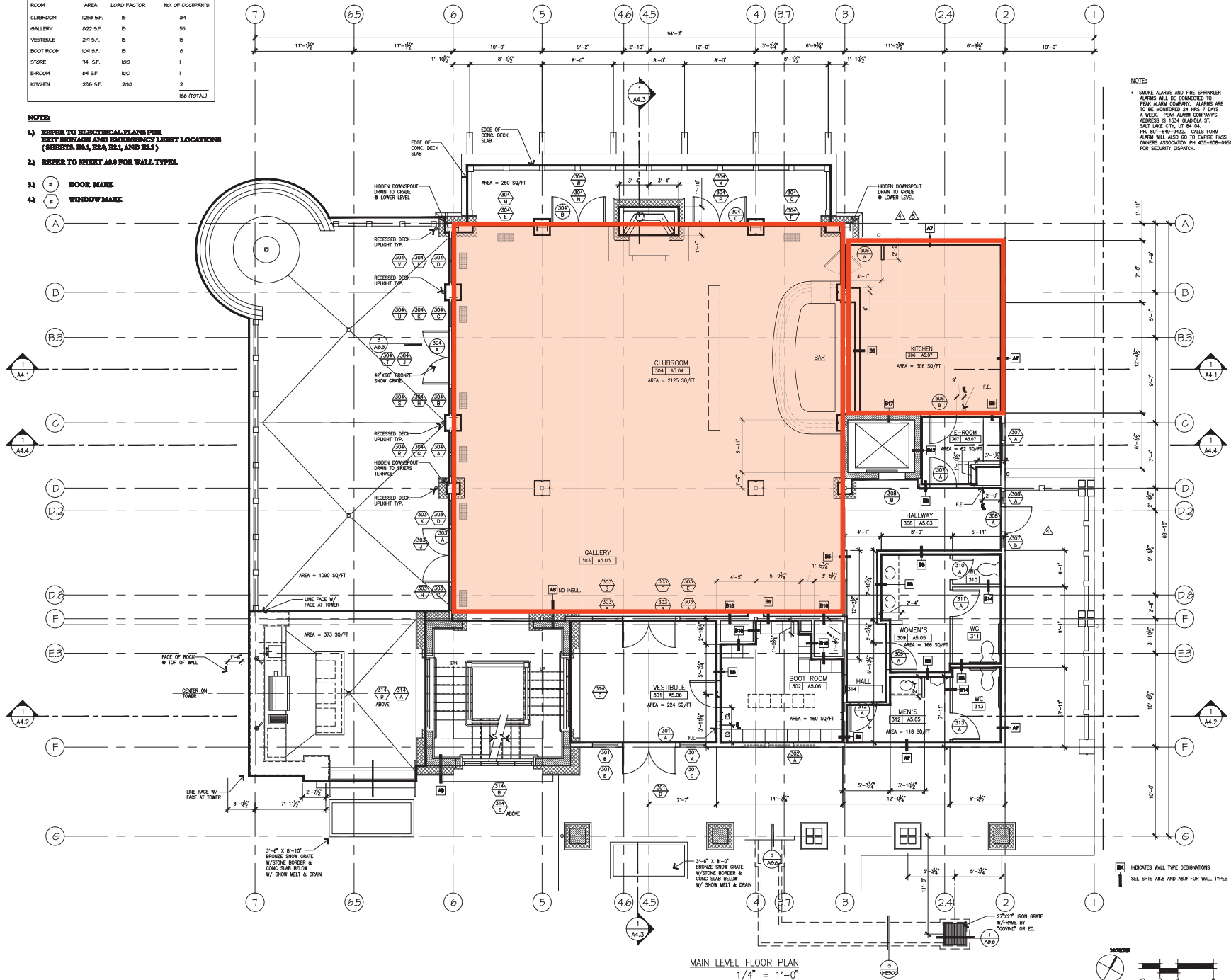
OCCUPANT LOAD CALCULATIONS			
ROOM	AREA	LOAD FACTOR	NO. OF OCCUPANTS
CLUBROOM	1209 S.F.	15	84
GALLERY	822 S.F.	15	55
VESTIBULE	244 S.F.	15	16
BOOT ROOM	104 S.F.	15	7
STORE	14 S.F.	100	1
E-ROOM	64 S.F.	100	1
KITCHEN	288 S.F.	200	2
			166 (TOTAL)

NOTE:

- 1) REFER TO ELECTRICAL PLANS FOR EXIT SIGNAGE AND EMERGENCY LIGHT LOCATIONS (SHEETS E21, E22, E23, AND E24)
- 2) REFER TO SHEET A45 FOR WALL TYPES.
- 3) # DOOR MARK
- 4) # WINDOW MARK

NOTE:

- SMOKE ALARMS AND FIRE SPRINKLER ALARMS WILL BE CONNECTED TO POK ALARM COMPANY. ALARMS ARE TO BE MONITORED 24 HRS. 7 DAYS A WEEK. POK ALARM COMPANY'S ADDRESS IS 1334 GRANDVIEW ST. SALT LAKE CITY, UT 84104.
- 911 AND 911-PM-RAID: CALLS FROM ALARMS WILL ALSO GO TO EMERGENCY SERVICES ASSOCIATION PH 435-608-0951 FOR SECURITY DISPATCH.



HART HOWERTON
ARCHITECTS
1125 E. 1000 S. SUITE 100
SALT LAKE CITY, UT 84143
PHONE: 313.444.4444
FAX: 313.444.4444
WWW.HARTHOWERTON.COM

EMPIRE PASS CLUBHOUSE

Deer Valley, Park City, Utah

DATE: 04/26/16
ISSUE: 01/26/16
REVISION: 02/26/16
PROJECT: EMPIRE PASS CLUBHOUSE

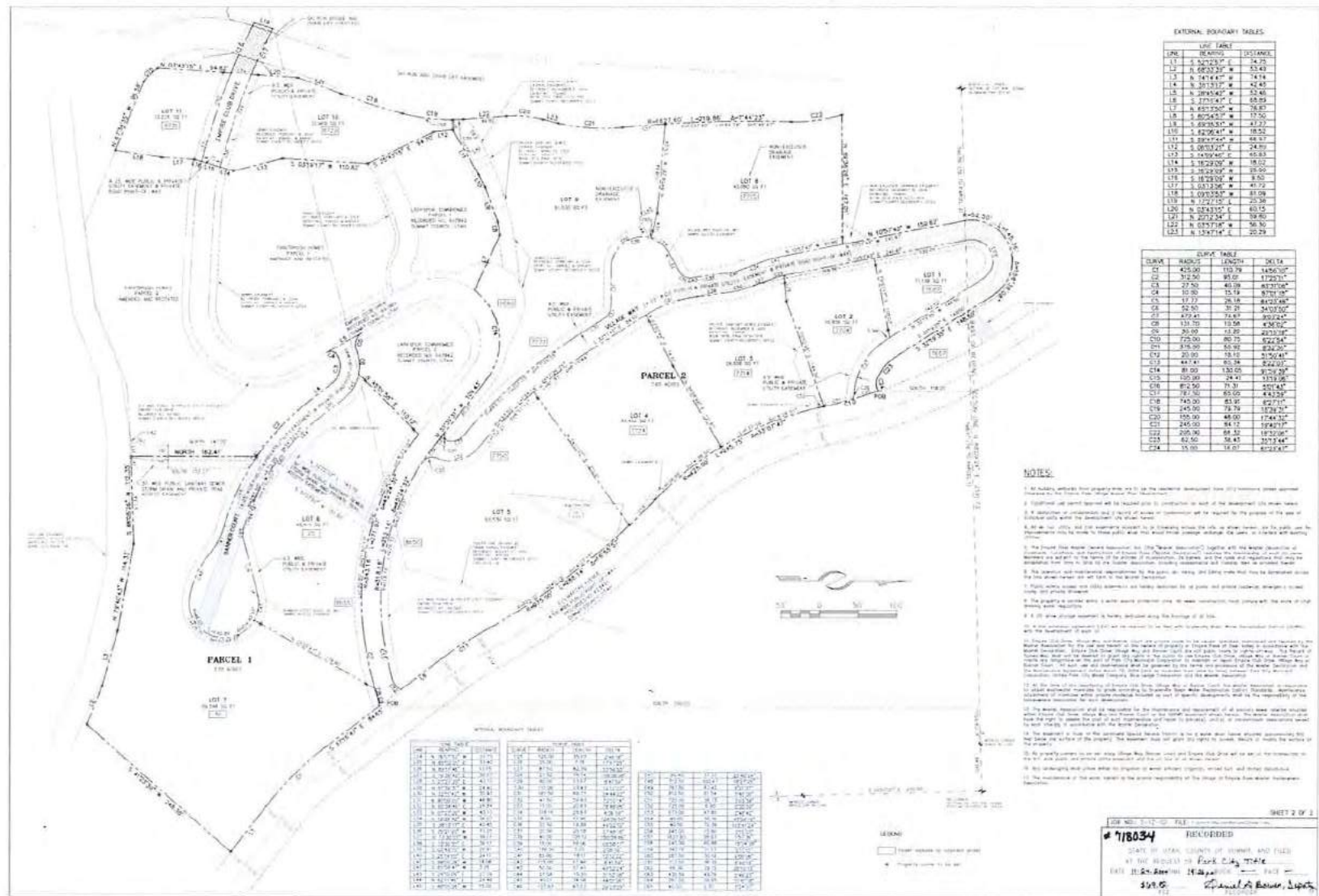
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1	04/26/16	ISSUE FOR PERMIT
2	01/26/16	REVISION FOR PERMIT
3	02/26/16	REVISION FOR PERMIT
4	03/26/16	REVISION FOR PERMIT

EMPIRE PASS CLUBHOUSE MAIN LEVEL FLOOR PLAN

PROJECT #:
DRAWN BY:
CHECKED BY:
DATE:
DRAWING NO:
A2.3.1



Page 445



SURVEYOR'S CERTIFICATE

I, John Demkowicz, do hereby certify that I am a Registered Land Surveyor and that I hold Certificate No. 154491, as prescribed under the laws of the State of Utah. I further certify that by the authority of the owners I have made a survey of the tract of land shown on this plat and described herein and subdivided said tract of land into lots, private rights-of-way, and easements to be hereafter known as FIRST AMENDMENT, THE VILLAGE AT EMPIRE PASS, PHASE I, LOT 9 and that the same has been or will be correctly located on the ground as shown on this plat.

John Demkowicz
John Demkowicz

12-26-2011
Date



AMENDED LOT 9 BOUNDARY DESCRIPTION

PARCEL 1

Lot 9, The Village at Empire Pass, Phase I, according to the official plot thereof, on file and of record in the office of the recorder, Summit County, Utah, recorded November 24, 2004, as Entry No. 718034.

PARCEL 2

Beginning at a point that is North 88°09'24" East 244.47 feet along section line and South 357.05 feet from the North Quarter corner of Section 26, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point being on the westerly right-of-way of Village Way and on the easterly boundary of Lot 8, The Village at Empire Pass, Phase I, according to the official plot thereof on file and of record in the office of the recorder, Summit County, Utah, recorded as entry #718034 and on a curve to the left having a radius of 186.50 feet, of which the radius point bears North 91°50'29" East; thence southerly along the arc of said curve 77.48 feet through a central angle of 23°48'12"; thence South 32°11'42" East 48.99 feet to a point on a non tangent curve to the left having a radius of 20.00 feet, of which the radius point bears South 57°48'18" West, said point being on the easterly boundary of Lot 5, The Village at Empire Pass, Phase I and on the westerly right-of-way of said Village Way, thence northwesterly along the arc of said curve 20.18 feet through a central angle of 57°48'18"; thence West 48.80 feet to a point on a curve to the right having a radius of 40.00 feet, of which the radius point bears North, thence northerly along the arc of said curve 103.12 feet through a central angle of 150°24'48"; thence North 60°34'48" East 28.84 feet to a point on a curve to the left having a radius of 15.00 feet, of which the radius point bears North 29°23'14" West; thence northwesterly along the arc of said curve 18.06 feet through a central angle of 68°58'17" to the point of beginning. Parcel 1 & 2 contain 66,711 square feet.

PROPERTY ADDRESS:
7777 Village Way
Park City, Utah 84060
or
8680 Empire Club Drive
Park City, Utah 84060

LINE	BEARING	DISTANCE
1	N 88°09'24" E	244.47
2	S 35°48'18" W	77.48
3	S 32°11'42" E	48.99
4	S 57°48'18" W	20.18
5	S 29°23'14" W	18.06
6	N 60°34'48" E	28.84
7	N 15°02'48" E	103.12
8	N 15°02'48" E	20.00

CURVE	RADIUS	LENGTH	DELTA
C1	40.00	30.36	43°29'19"
C2	15.00	18.06	68°58'17"
C3	186.50	77.48	23°48'12"
C4	20.00	16.36	49°24'06"
C5	6.00	4.08	150°24'48"
C6	240.00	14.90	63°18'53"
C7	186.50	48.00	17°45'22"
C8	240.00	86.12	194°07'27"
C9	186.50	35.87	63°18'53"

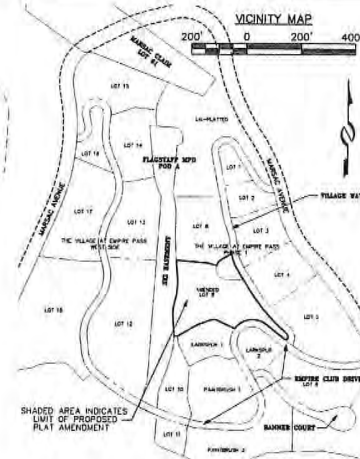
NOTES:

- This First Amendment to THE VILLAGE AT EMPIRE PASS PHASE I Subdivision Plat is for Lot 9 only. This Record of Survey that does not include Plots 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.
- The Private Parking Elements shown herein identify that portion of Amended Lot 9 that may be used for private parking consistent with the Shooting Star condominium development shown on Lot 6 and as otherwise permitted in the referenced Grant of Partial Easement.
- The Private Parking Elements shown herein identify that portion of Amended Lot 9 that may be used by all owners of The Village at Empire Pass and their guests and visitors.
- The maintenance of the private Lot 9 water system is the responsibility of the Lot 9 Village at Empire Pass Sub Association.
- Village Way is a private road.
- This plat amendment does not approve any changes to the Conditional Use in Master Planned Development approved on the property.
- This plat is subject to all of the conditions of approval of Ordinance # 11-02, passed and adopted January 6, 2011.
- All members of approval of the Final Plat Amendment and Development Agreement and the Village at Empire Pass Master Planned Development and the Village at Empire Pass Phase I Subdivision Plat shall continue to apply.

First Amendment THE VILLAGE AT EMPIRE PASS Phase 1

Lot 9

LOCATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28,
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH



OWNER'S DEDICATION AND CONSENT TO RECORD

UNITED PARK CITY WINES COMPANY, a Delaware corporation, the Owner of a portion of the tract of land described herein as First Amendment of THE VILLAGE AT EMPIRE PASS, PHASE I, Lot 9, hereby certifies that it has caused this First Amendment of Subdivision Plat consisting of one (1) sheet to be prepared, dated hereby consent to the execution of this First Amendment of Subdivision Plat, and does hereby dedicate on a public and private utility easement the 5.2 foot wide portion of property situated along the southern side of a portion of Village Way as shown herein.

IN WITNESS WHEREOF the undersigned has executed this certificate and dedication this 22nd day of December, 2011.

UNITED PARK CITY WINES COMPANY,
a Delaware corporation,
By: *Kerry C. Gee*
Name: KERRY C. GEE
Title: VICE PRESIDENT

ACKNOWLEDGMENT

STATE of Utah
COUNTY of Summit
This instrument was acknowledged before me this 22nd day of December, 2011 by

Kerry C. Gee the Vice President of United Park City Wines Company, a Delaware corporation.
Notary Public: *Lisa E. Burton* Printed Name: Lisa E. Burton
My commission expires April 10, 2012 Residing in: Summit County



4383 848-0467 SNYDERVILLE BASIN WATER RECLAMATION DISTRICT REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS 22nd DAY OF December, 2011 A.D. BY: <i>[Signature]</i> S.B.W.R.D.	PLANNING COMMISSION APPROVED BY THE PARK CITY PLANNING COMMISSION THIS 8th DAY OF December, 2011 A.D. BY: <i>[Signature]</i> CHAIRMAN	ENGINEER'S CERTIFICATE I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 22nd DAY OF December, 2011 A.D. BY: <i>[Signature]</i> PARK CITY ENGINEER	APPROVAL AS TO FORM APPROVED AS TO FORM THIS 30th DAY OF December, 2011 A.D. BY: <i>[Signature]</i> PARK CITY ATTORNEY	CERTIFICATE OF ATTEST I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 6th DAY OF January, 2011 A.D. BY: <i>[Signature]</i> PARK CITY RECORDER	COUNCIL APPROVAL AND ACCEPTANCE APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 6th DAY OF JANUARY, 2011 A.D. BY: <i>[Signature]</i> MAYOR	JOB NO. 6-3-05 FILED: 12/22/2011 #937021 RECORDED STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF COALITION TITLE DATE 1/11/12 THE 1:22AM BOOK 22 PAGE 2 312 FEE <i>[Signature]</i> RECORDER
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Recorded at the request of and return
to: Park City Municipal Corp.
Attn: City Recorder
P.O. Box 1480, Park City, UT 84060

Recorded this ____ day of
____, 2007
at Book # ____ Page # ____

ENTRY NO. 00806100

03/02/2007 02:42:51 PM B: 1850 P: 1897

Agreement PAGE 1 / 49

ALAN SPRIGGS, SUMMIT COUNTY RECORDER

FEE \$ 0.00 BY PARK CITY MUNICIPAL CORP



**AMENDED AND RESTATED DEVELOPMENT AGREEMENT
FOR FLAGSTAFF MOUNTAIN,
BONANZA FLATS, RICHARDSON FLATS,
THE 20-Acre QUINN'S JUNCTION PARCEL
AND IRON MOUNTAIN**

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT ("Agreement") is entered into as of the 2nd day of March, 2007, by and between UNITED PARK CITY MINES COMPANY, ("UPCM" or "DEVELOPER"), DEER VALLEY RESORT COMPANY, ("DEER VALLEY"), and PARK CITY MUNICIPAL CORPORATION, a third class city of the State of Utah ("City") (collectively, the "Parties").

RECITALS

- A. WHEREAS, DEVELOPER and DEER VALLEY own approximately: 1,600 of 1,750 acres of patented mining claims located in the unincorporated Flagstaff Mountain area of Summit County, more particularly described and depicted in Exhibit A attached hereto (hereafter, "Flagstaff Mountain"); approximately 106 acres of patented mining claims located on Iron Mountain within an unincorporated area of Summit County more particularly described and depicted in Exhibit B attached hereto (hereafter, "the Iron Mountain Parcels"); approximately 1,500 acres of patented mining claims, constituting all of UPCM's land located in the unincorporated Bonanza Flats area of Wasatch County more particularly described and depicted in Exhibit C attached hereto (hereafter, "Bonanza Flats"); all of UPCM's land east of U.S. 40 and south of S.R. 248 constituting approximately 650 acres of real property owned in fee simple located immediately east of U.S. 40 and south of S.R. 248 within an unincorporated area

of Summit County more particularly described and depicted in Exhibit D attached hereto (hereafter, "Richardson Flats"); and approximately 20-Acres of real property owned in fee simple located west of U.S. 40 and south of S.R. 248 within an unincorporated area of Summit County more particularly described and depicted in Exhibit E attached hereto (hereafter, "the 20-Acre Quinn's Junction Parcel");

- B. WHEREAS, on May 17, 1994 DEVELOPER filed an application for annexation to Park City of Flagstaff Mountain, consisting of DEVELOPER's, DEER VALLEY's and Northside Neighborhood Property Owners' land, together totaling an area of approximately 1,750 acres;
- C. WHEREAS, on May 10, 1997 the Park City Council unanimously resolved by Resolution 10-97 to annex Flagstaff Mountain under certain Development Parameters;
- D. WHEREAS, on July 8, 1998 DEVELOPER requested reconsideration by the City of Resolution 10-97 and offered certain incentives for limiting development of the Bonanza Flats, Richardson Flats and the Iron Mountain Parcels;
- E. WHEREAS, on September 10, 1998 the Park City Council unanimously adopted a resolution to rescind Resolution No. 10-97 and to adopt new development parameters for Flagstaff Mountain, Bonanza Flats, Richardson Flats and the Iron Mountain Parcels, as set forth in this Agreement;
- F. WHEREAS, in the intervening months since the City Council adopted the September 10, 1998 development parameters, the DEVELOPER further refined its proposal by offering to move 16 single family homes from the sensitive Prospect Ridge area to the Mountain Village and to constrain development in the Northside Neighborhood to reduce site disturbance and to facilitate sale to a conservation buyer for a time certain;
- G. WHEREAS, the Parties intended to enter into the original Agreement to establish new development parameters for Flagstaff Mountain, Bonanza Flats, Richardson Flats, the 20-Acre Quinn's Junction Parcel, and the Iron Mountain Parcels and to establish a time certain for annexation of Flagstaff Mountain (now referred to generally as Empire Pass) into the City;

- H. WHEREAS, the Parties in fact entered into the original Agreement on or about June 24, 1999; and
- I. WHEREAS, the Parties desire to amend and restate the original Agreement in connection with the development of a project known as the Montage Resort & Spa which is presently planned to include 192 hotel rooms and suites, with spa, restaurant and conference facilities, and a residential component that consists of resort condominiums.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants hereafter set forth, the sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

SECTION I. DEFINITIONS

Unless the context requires a different meaning, any term or phrase used in this Agreement that has its first letter capitalized shall have that meaning given to it by the Park City Land Management Code (LMC) in effect on the date of a complete application or, if different, by this Agreement. Certain such terms and phrases are referenced below; others are defined where they appear in the text of this Agreement.

- 1.1 **"Annexation Property"** means that approximately 1,750 acres of property known as Flagstaff Mountain, described and depicted on Exhibit A.
- 1.2 **"Bonanza Flats"** means that approximately 1,500 acres of UPCM property commonly referred to as Bonanza Flats, constituting all of UPCM's holdings in Bonanza Flats and described and depicted on Exhibit C.
- 1.3 **"DEER VALLEY"** means the Deer Valley Resort Company, a Utah limited Partnership and each of its assigns, joint venture partners, and successors in interest, whether in whole or in part. DEER VALLEY shall cause its employees and agents to act in accordance with the terms of this Agreement.
- 1.4 **"DEVELOPER"** means United Park City Mines Company, a publicly traded Delaware corporation, and each of its assigns, joint venture partners, and successors in interest, whether in whole or in part. DEVELOPER shall cause its employees and agents to act in accordance

with the terms of this Agreement.

- 1.5 **"Inaction"** provisionally¹ means (a) DEVELOPER's failure to pursue a sequential permit (i.e. Small Scale MPD permit, conditional use permit, subdivision application, or building permit) by failing to submit a complete application for such a permit or by failing to respond to the City's written requests for information which the City deems is necessary to process the application; or (b) DEVELOPER's failure to sustain permitted construction such that the permit under which construction is allowed, expires or is otherwise suspended or revoked.
- 1.6 **"Meeting Accessory Uses"** provisionally² means uses normally associated and necessary to serve meeting and banquet space. Meeting Accessory Uses do not require the use of Unit Equivalents and include:
- 1.6.1 Administrative and Banquet Offices
 - 1.6.2 Banquet Storage Areas
 - 1.6.3 Banquet Prep Areas Storage Areas
 - 1.6.4 Common A/V Storage Areas
 - 1.6.5 Coat Check Areas
 - 1.6.6 Public Restrooms
 - 1.6.7 Public Telephone Areas
 - 1.6.8 Public Hallways
 - 1.6.9 Public Circulation Areas.
- 1.7 **"Mountain Village"** means that mixed-use portion of Flagstaff Mountain described and depicted as the Mountain Village in Exhibit A attached hereto and limited to a total of 87 acres, within three development Pods (A, B₁, and B₂) and maximum densities, unit equivalencies and configuration more fully described herein.

¹ This definition has been inserted in anticipation of its inclusion in a new revision of the Land Management Code. This definition will be superseded by an LMC definition of the term.

² This definition has been inserted in anticipation of its inclusion in a new revision of the Land Management Code. This definition will be superseded by an LMC definition of the term.

- 1.8 **"Northside Neighborhood"** means that 63-acre portion of Flagstaff Mountain described and depicted as the Northside Neighborhood in Exhibit A attached hereto and limited to the maximum density, unit equivalency, and configuration more fully described herein.
- 1.9 **"Northside Neighborhood Property Owners"** means, in addition to UPCM and DEER VALLEY, Park City Star Mining Company, Inc., a Utah corporation, Bransford Land Company, representing the interests of Anne Bransford Newhall, Mary Bransford Leader and Carolyn Bransford MacDonald, and Stichting Beheer Mayflower Project, a legal entity representing the interests of Stichting Mayflower Recreational Fonds and of Stichting Mayflower Mountain Fonds.
- 1.10 **"Pedestrian Village"** means an area configured within Pod A of the Mountain Village for the mixed use of residential, Residential Accessory, Resort Support Commercial, Resort Accessory, meeting and Meeting Accessory Uses within which at least fifty percent (50%) of the residential properties are clustered within walking distance (5 minutes) of a Transportation Hub for such residential properties, which can be directly accessed by pathways or sidewalks.
- 1.11 **"Planned Unit Development" or "PUD"** means a master planned development consisting of clustered, detached, single family or duplex units with common open space and coordinated architecture.
- 1.12 **"Pod Z"** means that area, depicted on Exhibit F that is limited for ski-related uses as further defined herein.
- 1.13 **"Project"** means the residential, recreational and commercial real estate development to be constructed within Flagstaff Mountain.
- 1.14 **"Residential Accessory Uses"** provisionally³ means uses that are for the benefit of the residents of a commercial residential use, such as a hotel or nightly rental condominium project. Residential Accessory Uses do not require the use of Unit Equivalents. Residential Accessory Uses include:

³ This definition has been inserted in anticipation of its inclusion in a new revision of the Land Management Code. This definition will be superceded by an LMC definition of the term.

- 1.14.1 Common Ski Lockers
- 1.14.2 Common Lobbies
- 1.14.3 Registration
- 1.14.4 Concierge
- 1.14.5 Bell Stand/Luggage Storage
- 1.14.6 Common Maintenance Areas
- 1.14.7 Mechanical Rooms
- 1.14.8 Common Laundry Facilities and Common Storage Areas
- 1.14.9 Employee Facilities
- 1.14.10 Common Pools, Saunas and Hot Tubs
- 1.14.11 Public Telephone Areas
- 1.14.12 Public Restrooms
- 1.14.13 Administrative Offices
- 1.14.14 Public Hallways and Circulation Areas

1.15 **“Resort Accessory Uses”** provisionally⁴ means uses that are clearly incidental to and customarily found in connection with the principal resort building or use and are operated for the convenience of the owners, occupants, employees, customers or visitors to the principal resort use. Resort Accessory Uses do not require the use of Unit Equivalents. They include such uses as:

- 1.15.1 Information
- 1.15.2 Lost and Found
- 1.15.3 Mountain Patrol
- 1.15.4 Mountain Administration
- 1.15.5 Mountain Maintenance and Storage Facilities
- 1.15.6 Mountain Patrol and Emergency Medical Facilities
- 1.15.7 Public Lockers
- 1.15.8 Public Restrooms
- 1.15.9 Employee Lockers
- 1.15.10 Ski School/Day Care

⁴ This definition has been inserted in anticipation of its inclusion in a new revision of the Land Management Code. This definition will be superseded by an LMC definition of the term.

1.15.11 Ticket Sales Areas

1.15.12 Ski Check Areas

1.15.13 Public Circulation Areas and Hallways

1.16 **“Richardson Flats”** means all of UPCM’s property at the southeast corner of U.S. 40 and S.R. 248, more fully described and depicted on Exhibit D.

1.17 **“Transportation Hub”** means the terminus of a public and/or private transportation system that is located at a convenient location within the Mountain Village.

1.18 **“Unit Equivalent,”** with respect to commercial structures and multifamily and PUD structures, has the meaning set forth in the LMC.⁵ Each single family residential structure (excluding PUDs) approved by the City pursuant to this Agreement for construction within the Project shall have a Unit Equivalent of 1.00, regardless of the size or the location of the single family residential structure. Each commercial structure or portion thereof (as such may be determined in applicable MPD approvals) shall consume 1 Unit Equivalent for each 1000 square feet. Each multifamily and PUD residential structure shall consume 1 Unit Equivalent for each 2000 square feet.

SECTION II. LARGE SCALE MPD—FLAGSTAFF MOUNTAIN

2.1. DEVELOPER is hereby granted the equivalent of a Large Scale Master Planned Development (Large Scale MPD) for Flagstaff Mountain. This Large Scale MPD sets forth maximum densities, location of densities and DEVELOPER-offered amenities and is subject to all normally-applicable City processes, and in addition thereto, such processes defined below, including DEVELOPER’s responsibility, prior to or concurrent with the Small Scale MPD process, to submit and ultimately to obtain (upon modification, if necessary) City approval, of satisfactory plans detailed below:

⁵ Hotel rooms of 500 square feet or less constitute ¼ Unit Equivalent.

- 2.1.1. Mine/Soil Hazard Mitigation Plan--which plan shall include an inventory of all mine sites, potential sources of release of hazardous materials into the environment, and a plan and schedule for their remediation;
- 2.1.2. Detailed Design Guidelines, with strong architectural themes, for the entire Flagstaff Mountain Project;
- 2.1.3. Specific Transit Plan;
- 2.1.4. Parking Management Plan;
- 2.1.5. Detailed Open Space Management Plan;
- 2.1.6. Historic Preservation Plan;
- 2.1.7. Emergency Response Plan, including DEVELOPER's commitments to provide infrastructure necessary to serve the Project and Bonanza Flats and phasing therefor;
- 2.1.8. Trails Master Plan setting forth trail locations, specifications, phasing and timing of public easements;
- 2.1.9. Private Road Access Limitation Procedures;
- 2.1.10. Construction Phasing Plan—including construction milestones for project amenities, including Richardson Flats development;
- 2.1.11. General Infrastructure and Public Improvements Design and Phasing Plan, which calls for the efficient extension of services, concentrating initial infrastructure development in the Mountain Village, and secondarily in the Northside Neighborhood. Such plan shall allow for the construction of a variety of housing types in each phase;
- 2.1.12. Utilities Master Plan—including the timing, alignment and service strategy for water and sewer service, as well as storm water management throughout the Project and Bonanza Flats;
- 2.1.13. Wildlife Management Plan; and
- 2.1.14. Affordable Housing Plan, including phasing.
- 2.2. **Maximum Development Parameters--Flagstaff Mountain.** Flagstaff Mountain is composed of the Mountain Village, the Northside

Neighborhood; various ski related improvements, and the Silver Mine Adventure. Upon annexation, Flagstaff Mountain will be zoned as shown on the zoning map attached hereto as Exhibit P. The following maximum development parameters apply to Flagstaff Mountain:

2.2.1 Mountain Village: The Mountain Village is constrained as follows:

- 2.2.1.1 Small Scale MPD.** Site specific volumetrics and configuration will be established in the Small Scale MPD process.
- 2.2.1.2. Maximum Development Area.** In the Small Scale MPD process, the entire Mountain Village development shall be constrained within a total of 87 acres.
- 2.2.1.3. Maximum Density.** The maximum density within the Mountain Village is 785 Unit Equivalents configured in no more than 550 dwelling units.⁶ Such density shall be configured as multi-family, hotel, or PUD units, provided the PUD units do not exceed 60. PUD units consume Unit Equivalents in the same respect as multifamily units. Additionally, the Mountain Village may contain up to 16 detached single family home sites.
- 2.2.1.4. Pedestrian Village.** At least 50% of the residential units within the Mountain Village must be clustered within the primary development pod (Pod A), and must be located within a five-minute walk of the Transportation Hub. All three development pods (Pods A, B₁, and B₂) within the Mountain Village must be linked by transit.
- 2.2.1.5. Commercial.** The Mountain Village may additionally include up to 75,000-sq. ft. of Resort Support Commercial uses, which shall include Neighborhood

⁶ Hotel rooms of 500 square feet or less constitute 1/4 Unit Equivalent. In the case of the Montage, the 192 Montage hotel rooms shall count as Unit Equivalents at the rate of 1 Unit Equivalent per 2,000 square feet of hotel rooms, but such hotel rooms shall not have kitchens and shall not count as dwelling units.

Convenience Commercial uses for residents and visitors such as groceries and sundries.

2.2.1.6. **Mine Site Reclamation.** To the greatest extent possible, DEVELOPER shall locate density in disturbed areas. This provision applies primarily to potential density at the Daly West site. Additionally, DEVELOPER shall reclaim⁷ all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review.

2.2.1.7. **Public Trails.** DEVELOPER shall construct and dedicate public trails designated on an accepted Trails Master Plan. Many trails will be constructed on land ultimately owned by DEER VALLEY. In those areas, DEER VALLEY shall be responsible for trail maintenance and for enforcing reasonable rules and regulations for public trail use. Such rules may not exclude free public access to the public trail systems identified on the Trails Master Plan.

2.2.1.8. **Deed Restricted Open Space.** Within 30 days of issuance of a Small Scale MPD, DEVELOPER and/or DEER VALLEY shall execute for the benefit of the City perpetual covenants and restrictions with respect to all designated open space associated with the Small Scale MPD and which, at a minimum, shall prevent the construction thereon of residential, commercial and retail structures but shall provide for ski-related uses consistent with paragraph 2.5 herein.

2.2.1.9. **Parking.** Each Small Scale MPD submittal shall include a parking management plan with respect to the portion of the property covered by such Small Scale MPD submittal.

⁷ Reclamation shall include, at a minimum, revegetation of exposed areas.

The goal of the plan is to design the Mountain Village in such a way as to reduce parking demand by 25%. DEVELOPER shall plan and encourage within the Mountain Village portion of the Project programs such as parking management, paid parking for commercial uses, shuttles and other programs designed to reduce the demand for private vehicles and parking. DEVELOPER shall provide for shared parking in all commercial, short-term residential and mixed-use buildings. Assigned or reserved spaces within commercial, short-term residential and mixed-use buildings are prohibited except that in the case of the Montage, one parking space may be assigned for each dwelling unit (excluding the 192 hotel rooms). The majority of the required parking areas will be fully enclosed and/or constructed underground.

2.3 **Prospect Ridge.** DEVELOPER considers the Prospect Ridge area depicted in Exhibit K to be a critical viewshed area for Old Town.

2.3.1 **Public Trails.** Consistent with the Trails Master Plan, DEVELOPER shall construct and dedicate to the City public trails designated within the Prospect Ridge area.

2.3.2 **Deed Restricted Open Space.** Within 30 days of issuance of the first Small Scale MPD, DEVELOPER shall cause to be recorded a document, approved by the City, which shall impose perpetual covenants and use restrictions for that portion of Prospect Ridge depicted as "Recreation Open Space Dedication" on Exhibit K which shall prevent the construction thereon of residential, commercial and/or retail structures, ski lifts, and developed alpine ski runs.

2.4. **Northside Neighborhood.** The Northside Neighborhood is composed of property owned by five separate Northside Neighborhood Property Owners and, upon their written acceptance of the terms of this Agreement,



Master Plan - Summer

May 6, 2004

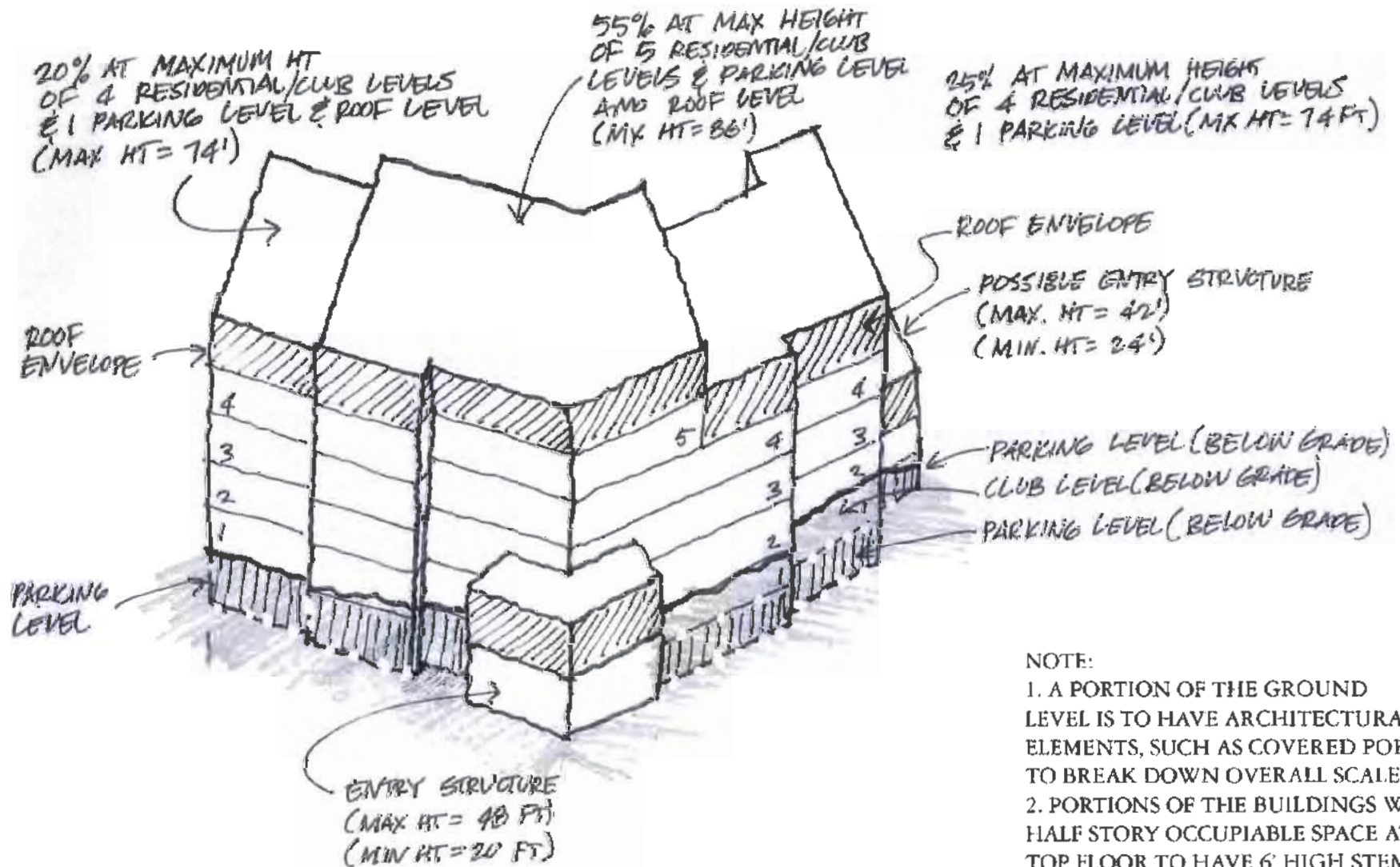
HART HOWERTON
Principal Architect
 1000 East Main Street
 Park City, Utah 84302

THE VILLAGE AT EMPIRE PASS
 Park City, Utah

Alpine Club Volumetrics

(Building 1)

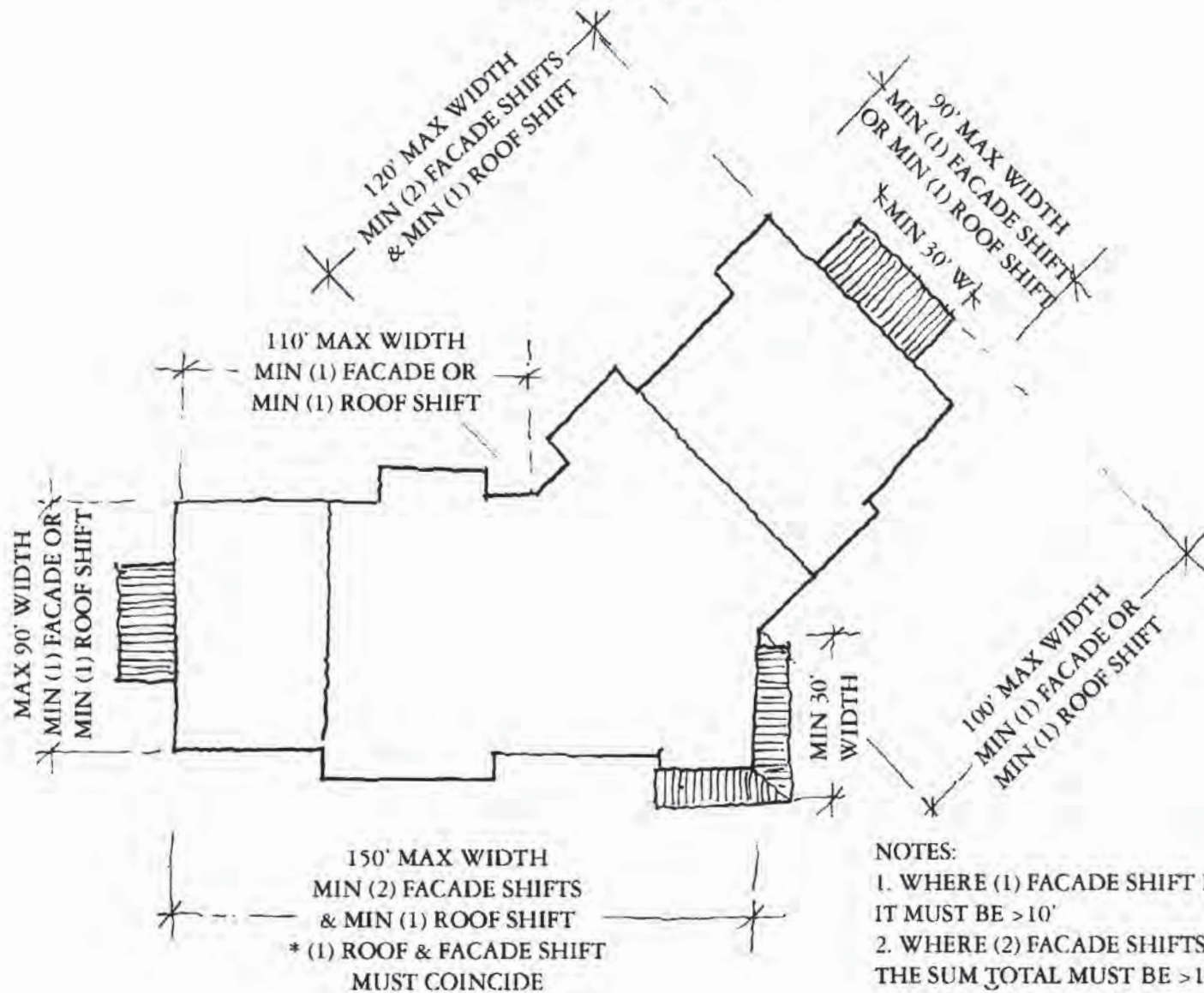
Isometric View



JUNE 17, 2004

Alpine Club Volumetrics

Plan View



NOTES:

1. WHERE (1) FACADE SHIFT IS REQUIRED IT MUST BE > 10'
2. WHERE (2) FACADE SHIFTS ARE REQUIRED THE SUM TOTAL MUST BE > 16'
3. WHEN BUILDING LENGTH EXCEEDS 120' AT LEAST (1) FACADE AND (1) ROOF SHIFT MUST COINCIDE

JUNE 17, 2004

Planning Commission Meeting
 Minutes of July 28, 2004
 Page 10

Findings of Fact - Marsac Avenue & Chambers Street Right-of-Way

1. The property is located between platted Marsac Avenue at the Sandridge parking lots and the Guardsman Connection to Silver Lake.
2. The zoning along the road is HR-1 and ROS.
3. The City Council adopted Ordinance 99-20 on June 24, 1999, approving the annexation and development agreement for the 1,655-acre Flagstaff Mountain area.
4. The Flagstaff Annexation Development Agreement Section 2.10.2 stipulates certain road and intersection improvements, including widening the road, drainage improvements, a passing lane, and runaway truck ramp.

Conclusions of Law

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

Conditions of Approval

1. The City Attorney and City Engineer will review and approve the final form and content of the Subdivision Plat for compliance with State law, the Land Management Code, and the conditions of approval prior to recordation of the plat.
2. The applicant will record the Subdivision Plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.

6. Empire Pass Master Planned Development

Planner Brooks Robinson commented on Pod A at Empire Pass and noted that the Planning Commission has discussed many details of his master planned development over several months. The public hearing was re-opened on July 14 and continued to this evening. The Staff has prepared findings of fact, conclusions of law, and conditions of approval for the master plan for Pod A. Pod B1 was previously approved. The Staff finds that this application complies with the Land Management Code and the Development Agreement, which are the controlling documents. There will be additional units and density left over from this approval, and Pod B2 will come in at a later date with its own master plan once the applicants are further along in planning development for that area. The applicant had prepared a number of exhibits and updates for the Commissioners' binders which will comprise this approval. These includes the project description and minor grammatical

error and language revisions. Planner Robinson outlined other updates distributed this evening. The Staff recommended that the Planning Commission re-open the public hearing, consider public input, and provide direction to the Staff and applicant.

Chair Barth referred to Pages 115-123 of the staff report, Summary of Compliance with the Technical Reports, and noted that he did not see in the draft findings any reference to incorporate those pages into a motion. Planner Robinson recalled that on July 14 Commissioner Erickson requested compliance with technical reports, and the decision was made to provide them as a separate document. He offered to add them as a finding.

Doug Clyde, representing the applicant, distributed to the Commissioners a visual simulation from King Road that was inadvertently left out of their package. He was uncertain which phasing plan is included in their packets and wanted to be sure the one they have shows the right units. He noted that town home units 16 and 17 and cluster home units 11 and 12 are in Phase I. He referred to page 6 of the recent handouts and corrected the number of Townhomes and PUD's from 28 to 23 units in the first phase.

Chair Barth re-opened the public hearing.

There was no comment.

Chair Barth closed the public hearing.

Commissioner Erickson read the conditions of approval relative to traffic circulation based on the development agreement and asked if they are part of the transportation mitigation plan and part of the 14 technical reports. Mr. Clyde replied that they are reflected in the existing construction mitigation plans currently on file with the City. Planner Robinson explained that every CUP that comes forward will need its own construction mitigation plan which will be reviewed by the Planning Commission.

The Planning Commission and Mr. Clyde discussed enforcement procedures for downhill traffic.

Planner Robinson revised Finding of Fact 10 by inserting a comma after A(Exhibit H)@ and adding Aand a compliance matrix with the technical reports (Exhibit I).@

Mr. Clyde referred to the density indicated on page 104 of the staff report and noted that 563 takes into account the additional 18 PUD units. This is not reflected in the table above, and he suggested adding the language Accounting the additional 18 PUD units noted below.@

MOTION: Commissioner Erickson moved to APPROVE the MPD in accordance with the findings of fact, conclusions of law, and conditions of approval with the following revisions:

- 1) The incorporation of the revised July 28, 2004, project description as presented by Staff.
2. The revision to Finding of Fact 10 incorporating the compliance report with the 14 technical reports, Exhibit I.
3. The revision to the phasing plan incorporating the town home Units 16 & 17 and the cluster home Units 11 & 12.
4. Correction to the staff report, page 104, with regard to the density incorporating the phrase that the 563.3 units includes the 18 unit equivalents referenced in Pod B1 below.
5. Incorporation of Condition of Approval 10 that they incorporate the technical report updates and clarifications as presented in the staff report

Mr. Clyde stated that the PUD's were originally intended to be 5,000 square feet each, but they had a problem with the Unit Equivalent calculation. He will return with a revised UE calculation which raises the number by 18 additional UE's. It will not change the plan, but it will make it correspond with the way they interpret UE's.

Planner Robinson referred to the density in the Pod B1 section on page 104 and noted that the last sentence should recognize that 90,000 square feet should be assigned to Lot B and not Lot C.

Commissioner Erickson incorporated the change to Page 104 as described by Planning Robinson into his motion. Commissioner Powers seconded the motion.

VOTE: The motion passed unanimously. Commissioner Thomas abstained from the vote, and Commissioner Zimney was not present for the vote.

Commissioner Volkman referred to the status of the technical reports regarding the mine soils hazard plan and the language which states, AA draft work plan for the clean up of Empire Canyon was approved by the EPA and reviewed by the Park City Municipal Corporation. Work will begin this summer.@ Mr. Clyde explained that the Empire Canyon work referred to is the clean up of the creek below the Deer Valley Day Lodge and the top of Daly Avenue. It has no relation to moving the mine dump.

Findings of Fact - Empire Pass

1. The Village at Empire Pass (Mountain Village) Master Planned Development is located in the RD-MPD and ROS-MPD Districts.
2. The City Council approved the Development Agreement for Flagstaff Mountain Development Agreement/Annexation Resolution No. 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The

- Development agreement sets forth maximum project densities, location of densities, and developer-offered amenities.
3. The Flagstaff Mountain Annexation is approximately 1,655 acres. Mixed-use development is limited to approximately 147 acres in four (4) development areas identified as Pods A, B-1, B-2 and D. The remainder of the annexation area is to be retained as passive and/or recreational open space.
 4. The Development Agreement limits development in Pods A, B-1, B-2 to:
 - No more than 705 Unit Equivalents in no more than 470 residential units (including not more than 60 PUD-style units) and no more than 16 single-family home sites;
 - no more than 85,000 square feet of resort support commercial; and
 - a maximum 35,000 square foot day skier lodge in Pod B-2.
 5. The Development Agreement required City review and approval of fourteen (14) technical reports/studies. The reports include details on the following information:
 - Mine/Soil Hazard Mitigation
 - Architectural Design Guidelines
 - Transit
 - Parking
 - Open Space Management
 - Historic Preservation
 - Emergency Response
 - Trails
 - Private Road Access Limitations
 - Construction Phasing
 - Infrastructure and Public Improvement Design
 - Utilities
 - Wildlife Management
 - Affordable Housing
 6. The Planning Commission completed the review and approval process for the technical reports/studies on December 12, 2001.
 7. This Master Plan for Pod A consists of a total of 321.5 units and 435.6 unit equivalents, including the previously approved Paintbrush, Larkspur, and Building H; the Transit Hub, ski lift and ski trails, and the location of the Alpine Club.
 8. Over 65% of the residential units (minimum 306) are within Pod A and within walking distance of the Transit Hub as required by the Development Agreement.
 9. The 14 technical reports/studies along with the Land Management Code and the Development Agreement (99-30) for the standard which the subject Master Planned Development and Phase 1 preliminary/final plat are reviewed.
 10. The applicant has provided supplemental materials including Master Plan Development Project Description (dated July 2004, Exhibit A), Supplemental Project Description and Conditions (dated July 5, 2004, Exhibit B), Volumetric Analysis (dated July 5, 2004, Exhibits D and E), Visual Analysis dated July 4, 2004 (Exhibit F), Architectural Character dated March 19, 2004 (Exhibit G), Supplemental Plans

- including Building Height Diagram, Vegetative Buffer, Trails, and construction Sequencing (Exhibit H), and a Compliance Matrix with the Technical Reports (Exhibit I). Together with the Site Plans dated July 21, 2004, (Exhibit C), these Exhibits and this report comprise the Village at Empire Pass MPD.
11. The Village at Empire Pass MPD illustrates conceptual access and street layouts that have not been specifically approved by the City Engineer and the City Fire Marshall. Final road layout will be subject to individual Subdivisions and Conditional Use Permits.
 12. Conditional Use Permit approval is required prior to any development within the Village at Empire Pass MPD area.
 13. The proposed Village at Empire Pass Master Planned Development includes a maximum density assignment and conceptual site design for Thirty (30) detached single-family PUD-style units utilizing 85.4 Unit Equivalents.
 14. The proposed Village at Empire Pass Master Planned Development includes a maximum density assignment and conceptual site design for Fifty-One (51) Townhouse units utilizing 64 Unit Equivalents. Eight of these Townhouse units are in a duplex configuration and count toward the PUD limits of 60.
 15. The proposed Village at Empire Pass Master Planned Development includes a conceptual site design for six (6) single-family homes.
 16. Conservation Easements are proposed within platted lots. These Conservation Easement areas will not count toward the development acreage.
 17. The PUD-style cluster homes and the Townhomes are to be platted as condominiums and not as individual lots.
 18. Utility lines and ski trails will be routed in existing clearings and common utility corridors to the greatest extent practical upon the City Engineer's approval.
 19. The Emergency Response Plan has been reviewed by the Chief Fire Marshall and the Planning Commission in order to allow fire access and safety at the end of the over-length cul-de-sac.
 20. The Planning Commission may decrease setbacks within an MPD. Setback variance is shown on Sheet 10 of 10 of Exhibit A, dated June 15, 2004.
 21. The Maximum Building Height in the RD District is 28 feet (33 feet with a pitched roof).
 22. The Land Management Code, Section 15-6-5(E) allows the Planning Commission to consider increased building height based upon a site specific analysis and determination.
 23. The applicant has requested additional building height for the structures proposed as Buildings 109, inclusive. The proposed building volumetrics are detailed on Exhibit D dated June 14, 2004.
 24. The proposed increase in building height for Buildings 1-9 does not result in an increase in square footage or building volume over what could be allowed under the zone-required building height and density, including requirements for facade variation and design, but rather provides desired architectural variation.

25. Proposed Buildings 1-9 have been positioned to minimize visual impacts on adjacent structures. Potential problems on neighboring properties caused by shadows, loss of solar access, and loss of air circulation have been mitigated to the extent possible as defined by the Planning Commission.
26. The site plan for proposed Buildings 1-9 includes adequate landscaping and buffering from adjacent properties and uses.
27. The additional building height for proposed Buildings 1-9 has resulted in more minimum open space than required and has resulted in the open space being more usable.
28. An MPD for pod B-2 will be reviewed under a separate MPD application.

Conclusions of Law - Empire Pass

1. The MPD, as conditioned, complies with all the requirements of the Land Management Code.
2. The MPD, as conditioned, meets the minimum requirements of Section 15-6-5 of this Code.
3. The MPD, as conditioned, is consistent with the Park City General Plan.
4. The MPD, as conditioned, provides the highest value of open space as determined by the Planning Commission.
5. The MPD, as conditioned, strengthens and enhances the resort character of Park City.
6. The MPD, as conditioned, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible.
7. The MPD, as conditioned, is compatible in use, scale, and mass with adjacent properties and promotes neighborhood compatibility.
8. The MPD provides amenities to the community so that there is no net loss of community amenities.
9. The MPD, as conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
10. The MPD, as conditioned, meets the provisions of the Sensitive Lands provisions of the Land Management Code. The project has been designed to place development on the most developable land and least visually obtrusive portions of the site.
11. The MPD, as conditioned, promotes the use of non-vehicular forms of transportation through design and by providing trail connections.
12. The MPD has been noticed and public hearings held in accordance with this Code.
13. The requirements necessary for the Planning Commission to grant additional building height within the MPD pursuant to the Land Management Code Section 15-6-5 have been met.

Conditions of Approval - Empire Pass

1. A Conditional Use Permit is required prior to any development within the Village at Empire Pass MPD area. As per the Phasing Plan, only the nine large multi-family

- buildings require a CUP review by the Planning Commission. All other units are to be reviewed at a Staff level.
2. City Engineer approval of a utility and infrastructure plan is a condition precedent to the issuance of any building permits within the Village Master Planned Development area.
 3. Utility lines and ski trails shall be routed in existing clearings and common utility corridors to the greatest extent practical upon the City Engineer's approval.
 4. If and when the realigned Guardsman Road is dedicated to the City, the Developer will execute an encroachment agreement in a form acceptable to the City Attorney and City Engineer for the private improvements (ski bridges and/or tunnels) within the rights-of-way.
 5. All essential municipal public utility buildings associated with the utility plan for the subdivision require a conditional use permit.
 6. The proposed over-length cul de sac that ends in the six single-family lots will have a secondary emergency access from the end of the road to Marsac Avenue. The emergency access will continue as a minimum 20-foot-wide all-weather surface road.
 7. A Construction Mitigation Plan, including truck routing, is a submittal requirement for each Conditional Use Permit.
 8. A preliminary landscape plan, including provisions for water-efficient irrigation systems, shall be submitted with each CUP application.
 9. All subsequent applications and approvals are subject to the Technical Reports as approved or amended.
 10. The technical report updates and clarifications as presented in the staff report shall be incorporated in this approval.
7. Red Cloud Subdivision

Planner Robinson noted that Red Cloud, commonly called Pod D, is the third and final Empire Pass application. Thirty single-family lots are proposed on the land owned and controlled by Talisker and the United Park City Mine Company. At the July 14 work session, the Planning Commission discussed the Enchanted Forest and how to apply the statement in the development agreement that no development should occur in the Enchanted Forest. Planner Robinson understood there to be general consensus from the Commission that having a ski easement/conservation easement across an area to be determined would constitute adequate protection. The language will prohibit snowmobiles but will allow skiing in the winter for people coming off the Red Cloud lift. The other issue discussed on July 14 was whether to amend the development agreement and Exhibit A of the development agreement which shows the pod boundaries to move the boundaries further south and west. This would not change the density or average lot size. The Staff analyzed that proposal for separation from ski runs and a visual analysis, and it is the Staff's opinion that the development agreement would have to be amended to allow that to

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
APRIL 13, 2005

COMMISSIONERS IN ATTENDANCE:

Chair Jim Barth, Bruce Erickson, Michael O'Hara, Bob Powers, Andrew Volkman

EX OFFICIO:

Patrick Putt, Planning Director; Dave Maloney, Planner; Ray Milliner, Planner; Brooks Robinson, Planner; Jonathan Weidenhamer, Planner; Eric DeHaan, City Engineer; Tim Twardowski, Assistant City Attorney

=====

REGULAR MEETING - 6:30 p.m.

I. ROLL CALL

Chair Barth called the meeting to order at 6:40 p.m. and noted that all Commissioners were present except Commissioners Thomas and Zimney who were excused.

II. PUBLIC COMMUNICATIONS

There were no comments.

III. STAFF & COMMISSIONERS' COMMUNICATIONS

Planning Director Patrick Putt reported that Commissioners Barth, Thomas, and Powers represented the Park City Planning Commission at a joint meeting with representatives from the Snyderville Basin Planning Commission on Monday, April 11. The purpose of the meeting was to re-establish regular joint meetings and discussion sessions with the two Planning Commissions to discuss areas of common interest, particularly the joint planning areas of Quinn's Junction, Kimball Junction, and PRI relative to transportation and transit planning. The subcommittee discussed larger projects, and Park City was updated on the County's new Development Code and General Plan changes. They reviewed the Board of County Commissioners' recent decision on establishing some Light Industrial zoning on the east side of US 40. Park City updated the County on the annexation proposals currently being reviewed by the City. The subcommittee decided to meet again in four to six weeks, with a consensus to meet quarterly with the full Planning Commissions meeting together. Commissioner Volkman requested morning meetings if possible.

MOTION: Commissioner Erickson moved to ADOPT the amended Construction and Development Phasing Plan as indicated in the staff report subject to receipt of Exhibit D, Off-Site Roads Improvements Plan. Commissioner Volkman seconded the motion.

VOTE: The motion passed unanimously.

5. The Village at Empire Pass, Empire Club - Conditional Use Permit

Planner Robinson recalled that the Planning Commission has reviewed this request a number of times and explained that the current plans are different from the original submittal reviewed at the last public hearing. The height and setback requirements in the LMC and development agreement apply. The building complies with the amended phasing plan in that it is approximately 8,900 square feet. A transit center will also be constructed, with a key component of the Pod A Village being to provide ride-on service for the Village and its members. The Staff has prepared an analysis of the CUP requirements and findings of fact, conclusions of law, and conditions of approval.

Chair Barth opened the public hearing.

There was no comment.

Chair Barth closed the public hearing.

MOTION: Commissioner Erickson moved to APPROVE the Empire Club Conditional Use Permit in accordance with the findings of fact, conclusions of law, and conditions of approval outlined in the staff report. Commissioner Powers seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - Village at Empire Pass CUP

1. The Empire Club Phase 1 Conditional Use Permit is located on Empire Club Drive in the RD-MPD zoning district of Pod A of the Village at Empire Pass.
2. The City Council approved the Development Agreement for Flagstaff Mountain Development Agreement/Annexation Resolution No. 99-30 on June 24, 1999. The Development Agreement sets forth maximum project densities, location of densities, and developer-offered amenities.
3. The Development Agreement requires the Master Developer to provide water source capacity.
4. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass, aka Pod A. The Empire Club Phase I is part of Building 1. A second residential project will be Phase II.
5. On September 30, 2004, the City Council approved a Final Subdivision Plat for the Village at Empire Pass, Phase I. The Empire Club Phase I project is located on Lot 9.
6. The proposed Empire Club Phase I Conditional Use Permit is for 8,887 square feet.
7. The proposed Conditional Use Permit is consistent with the approved Master Planned Development for the Village at Empire Pass.
8. The Empire Club Phase I will be platted as a condominium.
9. The elevation and climate of Flagstaff creates a harsh environment for utilities and their maintenance.
10. The maximum building height in the RD District is 28 feet (33 feet with a pitched roof). A height exception to 86 feet above natural grade was requested and granted in the Master Plan. The proposed building complies with the granted height exception.

11. The Planning Commission finds the proposed building in compliance with the volumetrics approved in the MPD; specifically, the facade shifts and roof shifts create architectural interest and break the building into smaller components.
12. The setbacks within the RD zone are twenty feet (20') in the front (25 feet to front facing garage), fifteen feet (15') to the rear, and twelve feet (12') on the side. Setbacks are the minimum distance between the closest of the following: property line, platted street, or existing curb or edge of street. The building complies with these setback requirements.
13. The Construction and Development Phasing Plan was revised on April 13, 2005.
14. The revised Phasing Plan required the Empire Club to be approximately 8,900 square feet.
15. The proposed Empire Club is 8,887 square feet.
16. A Construction Mitigation Plan reiterates downhill construction truck traffic will use Royal Street.

Conclusions of Law - Village at Empire Pass - CUP

1. The CUP is consistent with the Village at Empire Pass Master Planned Development, the Construction and Development Phasing Plan as amended on April 13, 2005, and the Park City Land Management Code.
2. Th CUP is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass, and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval - Village at Empire Pass - CUP

1. All standard conditions of approval apply to this Conditional Use Permit.
2. A water efficient landscape and irrigation plan that indicates snow storage areas and meets the defensible space requirement is required prior to building permit issuance.
3. All exterior lights must conform to the City lighting ordinance and the Flagstaff Mountain Resort Design Guidelines.
4. All exterior signs require a sign permit.
5. Materials, color samples, and final design details must be approved by Staff prior to building permit issuance.
6. The final building plans and construction details for the project shall meet substantial compliance with the drawings dated March 2, 2005, as submitted and reviewed by the Planning Commission.
7. Utility and grading plans must be approved by the City Engineer prior to Building Permit issuance.
8. The Construction Mitigation Plan must be in substantial compliance with the CMP reviewed by the Planning Commission.

9. The store will include a refrigerated case for milk, juice, and sodas, and the shelves will have snacks commonly found in a convenience store.
 10. Prior to issuance of any building permits for that unit or building which causes overall water consumption at Empire Pass to exceed 150 gallons per minute (approximately 75 units), the Master Developer shall have provided adequate water source capacity satisfactory to the City Attorney and Public Works Director.
6. 1790 Bonanza Drive - Restaurant parking plan discussion

MOTION: Commissioner Powers moved to CONTINUE this item until such time as the applicant submits the required documents as conditioned under the master plan.

Craig Elliott, representing the applicant, stated that they were trying to provide the information requested in the Planning Commission meetings when the project was previously processed. The applicant was asked to provide information on how they wanted to manage the parking, the current parking calculations as leased, how they intend to address the parking issues, and to review this item one year after implementing the parking conditions. Mr. Elliott believed the applicant had provided the necessary information requested when the renovation of Buildings 1 and 2 was approved. He stated that he would be willing to provide additional information to support the parking management plan, but he believed additional discussion was needed this evening to help prepare that information.

Commissioner Powers withdrew his motion.

Planner Ray Milliner presented the staff report and explained that the request is based on conditions of approval 1 through 3 of an MPD approval for the Rail Central development located at 1790 Bonanza Drive. One condition centers around parking as it pertains to a



MEMO TO FILE

Project Name: Talisker Tower Club – 2016 Expansion

777 Village Way
SBWRD Acct. 10972

From: Bryan Atwood

Subject: Impact Fee Calculation

Date: June 27, 2016

Project consists of remodel/expansion of building to include enclosing existing patio area to provide 32 additional seats in dining area on main level, adding a new patio to replace the patio area being enclosed and additional pool storage on the lower level.

Historic Water Use for Building

The existing building includes a lower level consisting of exercise facilities, a kids room, locker rooms with 4 showers, spa and steam room. The upper level consists of a commercial kitchen and club/dining room with 60 seats. The facility also has an outside pool and hot tub.

The 5 yr average water use during the winter water use period is 6.5 RE's (2,080 gal/day)

The RE's paid for the building is 2.7 RE's.

Estimated Water Use for Added New Use

Since it is not possible to determine what portion of the existing water use is for the restaurant portion of the building and what portion is for the remaining functions, it will be assumed the one half of the historic water use is for the restaurant.

Current restaurant use -	2,080 gal/day ÷	2	=	1,040 gal/day
Current Seating			=	60 seats
Water use per seat	=	1,040 gal/day ÷ 60 seats	=	18 gal/seat

Estimated water use for new seats –		
32 seats X 18 gal/seat/day	=	576 gal/day
576 gal/day ÷ 320 gal/day/RE	=	1.8 RE's additional

Additional Impact Fees Due

1.8 RE's Additional

Total RE's for Account #10972 will be 4.5 RE's



March 15, 2007

The DV Luxury Resort LLC
136 Heber Avenue, Suite 204
Park City UT 84060

Sent via email

NOTICE OF PLANNING COMMISSION ACTION

<u>Project Name</u>	Pod B-2, Empire Pass
<u>Project Description</u>	Master Planned Development
<u>Date of Meeting</u>	March 14, 2007

Action Taken By Planning Commission: The Planning Commission APPROVED the proposed Empire Pass B-2 Master Planned Development based on the following:

Analysis

All Master Planned Developments shall contain the following minimum requirements in accordance with Section 15-6-5 of the Land Management Code.

*(A) **DENSITY.** The type of Development, number of units and Density permitted on a given Site will be determined as a result of a Site Suitability Analysis and shall not exceed the maximum Density in the zone, except as otherwise provided in this section. The Site shall be looked at in its entirety and the Density located in the most appropriate locations.*

Complies

During the Olympic break in 2002, a subcommittee consisting of the applicant's design team, staff, and Commissioners Chris Larson, Bruce Erickson, and Michael O'Hara focused on a review of the preliminary road layout for the mountain village (Pods A, B-1, and B-2) and a building height analysis for the project build-out using the base RD-zone 33-foot height limit. These items were reviewed at a work session and a public hearing on March 27, 2002. No public comment was received. The Commission concluded that:

The base RD-zone height analysis demonstrates that the maximum project densities set forth in Ord. 99-30 could potentially be constructed within the approved

development pods without the necessity of a height increase above the 33-foot RD zone height limit; and

Building height increases for specific multi-family/resort-related buildings may be considered based on site-specific reviews and compliance with the standards set forth in the Master Planned Development section of the Land Management Code (LMC).

The additional 80 Unit Equivalents proposed for B-2 can be absorbed within the Empire Pass project in Code compliant 33-foot height buildings as shown on Exhibit A. The total number of units approved with this MPD are 192 hotel rooms using 69.6 Unit Equivalents (UEs) and 94 hotel condominiums (114 UEs) in the west side and 81 condominiums (81 UEs) on the east side.

(B) MAXIMUM ALLOWED BUILDING FOOTPRINT FOR MASTER PLANNED DEVELOPMENTS WITHIN THE HR-1 DISTRICT. (Not applicable)

(C) SETBACKS. *The minimum Setback around the exterior boundary of an MPD shall be twenty five feet (25') for Parcels greater than one (1) acre in size.*

Complies

The annexed area of Flagstaff Mountain was granted a large-scale MPD at the time of annexation with specific development pods. The Planning Commission and staff have consistently maintained that the setback requirement is fulfilled at the annexation boundary and does not need to be met within the defined development pods.

(D) OPEN SPACE. *All Master Planned Developments shall contain a minimum of sixty percent (60%) open space.*

Complies

As with the setback requirement in (C) above, the annexation area contains more than the minimum 60% requirement. The development of the Village (pods A, B-1 and B-2) is limited to 87 acres, as amended, within the original 1550 acres or 5% of the land area.

(E) OFF-STREET PARKING. *The number of Off-Street Parking Spaces in each Master Planned Development shall not be less than the requirements of this Code, except that the Planning Commission may increase or decrease the required number of Off-Street Parking Spaces based upon a parking analysis submitted by the Applicant at the time of MPD submittal.*

Complies

The Flagstaff Development Agreement stipulates that parking will be reduced by 25% below the Code requirements. The parking plan submitted meets this requirement and exceeds it. Based on the proposed residential unit sizes, hotel rooms and commercial spaces, the parking at B-2 West (west of the Empire Day Lodge, the site for the Montage Hotel) would require 742 spaces, reduced 25% to

561. The applicant is proposing a further reduction at B2 West to 530 stalls because valet parking will be mandatory for guests. The valet parking will be in a tandem configuration. The Planning Commission will need to make a finding that tandem parking for 192 spaces is acceptable with a valet program. Parking at B-2 East (east of the Empire Day Lodge and site of 81 condominiums and two employee housing units) would require by Code 165 spaces plus the 75 for the Empire Day Lodge. The 165 would be reduced 25% to 124 spaces. Each of the residential condominium units will be allowed to have one space assigned to the unit.

*(F) **BUILDING HEIGHT.** The height requirements of the Zoning Districts in which an MPD is located shall apply except that the Planning Commission may consider an increase in height based upon a Site specific analysis and determination. The Applicant will be required to request a Site specific determination and shall bear the burden of proof to the Planning Commission that the necessary findings can be made. In order to grant Building height in addition to that which is allowed in the underlying zone, the Planning Commission is required to make the following findings:*

(1) The increase in Building Height does not result in increased square footage or Building volume over what would be allowed under the zone required Building Height and Density, including requirements for facade variation and design, but rather provides desired architectural variation;

Complies

Please refer to section (A) Density above for discussion on the density built at the 33-foot zone height. Exhibit B is the applicant's narrative on each of the criteria for additional height. Square footage is governed by the Development Agreement, as amended. Code requirements for façade and roof variation will apply. The applicant is requesting a maximum building height of 114 feet above the USGS datum at the entry to the Montage and a maximum building height of 82 feet for the east side condominiums. As each of these sites have been or will be heavily disturbed for the mine soils mitigation, no "natural grade" can be established.

(2) Buildings have been positioned to minimize visual impacts on adjacent Structures. Potential problems on neighboring Properties caused by shadows, loss of solar Access, and loss or air circulation have been mitigated to the extent possible as defined by the Planning Commission;

Complies

The only existing structure is the Empire Day Lodge. The lodge is situated between the Montage Hotel to the west and the additional residential condominiums to the east. Neither of the proposed buildings will have an effect on the solar access to the day lodge. The major controlling factor in B2 is the ridgelines to the east, south, and west. Proposed are greater setbacks from the buildings to the day lodge than would be allowed by the LMC thereby allowing greater air flow through the project area.

(3) There is adequate landscaping and buffering from adjacent Properties and Uses. Increased Setbacks and separations from adjacent projects are being proposed;

Complies

The Montage hotel to the west of the day lodge is approximately 170 feet away; the condominium buildings to the east are approximately 70 away from the day lodge. The RD zone requirement is 12 feet for side yard setbacks. The conceptual landscape plan has significant landscaping between these buildings.

(4) The additional Building Height has resulted in more than the minimum open space required and has resulted in the open space being more usable;

Complies

The Flagstaff Annexation clustered the development of the project into several development pods, leaving 88% of the area as open space. Most of this open space is used for ski terrain, other recreation, and wildlife habitat.

(5) MPD's which include the additional height shall be designed in a manner so as to provide a transition in roof elements in compliance with Chapter 9 Architectural Guidelines or Historic District Design Guidelines if within the Historic District; and

Complies

The applicant has provided conceptual renderings and detailed volumetrics for the Montage hotel and east side condominiums. The roof elements are substantially stepped and provide architectural interest.

(6) Structures within the HR-1 District which meets the standards of development on Steep Slopes, may petition the Commission for additional height per criteria found in Section 15-2.2-6.

This section is not applicable.

If and when the Planning Commission grants additional height due to a Site specific analysis and determination, that additional height shall only apply to the specific plans being reviewed and approved at the time. Additional Building Height for a specific project will not necessarily be considered for a different, or modified, project on the same Site.

(G) SITE PLANNING. *An MPD shall be designed to take into consideration the characteristics of the Site upon which it is proposed to be placed. The project should be designed to fit the Site, not the Site modified to fit the project. The following shall be addressed in the Site planning for an MPD:*

(1) Units should be clustered on the most developable and least visually sensitive portions of the Site with common open space separating the clusters. The open space corridors should be designed so that existing Significant Vegetation can be maintained on the Site.

Complies

The Montage hotel on the west side is placed within a heavily disturbed site. The east side condos are sited over the existing sales office and East-West development office. This area has significant regulated soils that are required to be removed and would necessitate the removal of the aspens in this area. There is significant space

between the Montage and the Empire Lodge and the Lodge and the condo buildings to the east. These gaps provide visual corridors to the ridgeline behind.

(2) Projects shall be designed to minimize Grading and the need for large retaining Structures.

Complies

Significant excavation will be required; however, the buildings will fill the excavated areas with underground parking and service facilities. There are several retaining structures and a bridge into the entry court to the Montage. Generally, the buildings step with the site without the need of large or numerous retaining structures. The outdoor amenities to the buildings will flow at grade into the existing landscape. The ski run around the east and north side of the Hotel will require substantial grading; however, this is already a disturbed site from previous mining and remediation activities.

(3) Roads, utility lines, and Buildings should be designed to work with the Existing Grade. Cuts and fills should be minimized.

Complies

Minimal road work is required. An access road to the Montage is proposed to intersect State Route 224 just before the traffic circle. A bridge will span the drainage gully in this area. The buildings will step with the grade requiring minimal walls and cut/fill slopes.

(4) Existing trails should be incorporated into the open space elements of the project and should be maintained in their existing location whenever possible. Trail easements for existing trails may be required. Construction of new trails will be required consistent with the Park City Trails Master Plan.

Complies

The Mid-Mountain trail loops behind (south) of the project site. Although not a specifically identified trail on the Mountain Trails Foundation 2006 Trail Map, the emergency access road up Empire Canyon from the top of Daly Avenue is used by hikers and bikers. The site plan shows a proposed ski trail to the future pod Z lift in the area as well.

(5) Adequate internal vehicular and pedestrian/bicycle circulation should be provided. Pedestrian/ bicycle circulations shall be separated from vehicular circulation and may serve to provide residents the opportunity to travel safely from an individual unit to another unit and to the boundaries of the Property or public trail system. Private internal Streets may be considered for Condominium projects if they meet the minimum emergency and safety requirements.

Complies

No new streets are being created except for the short access road into the project site.

(6) The Site plan shall include adequate Areas for snow removal and snow storage. The landscape plan shall allow for snow storage Areas. Structures shall be set back

from any hard surfaces so as to provide adequate Areas to remove and store snow. The assumption is that snow should be able to be stored on Site and not removed to an Off-Site location.

Complies

There are minimal hard surfaces as all parking is underground. The hard surfaces proposed (entry drives, porte cochere, and patios) will be heated eliminating the need for snow storage.

(7) It is important to plan for refuse storage and collection and recycling facilities. The Site plan shall include adequate Areas for dumpsters and recycling containers. These facilities shall be Screened or enclosed. Pedestrian Access shall be provided to the refuse/recycling facilities from within the MPD for the convenience of residents and guests.

Complies

All refuse storage facilities will be underground in the garages of the buildings. Hotel staff will handle refuse and recycling collection.

(8) The Site planning for an MPD should include transportation amenities including drop-off Areas for van and shuttle service, and a bus stop, if applicable.

Complies

The Flagstaff Mountain annexation included 15 Technical Reports, one of which is the Transit Plan. The Transit Plan has been amended and updated with the inclusion of the Montage. The Montage project has additional transportation elements for guests and employees as found in the November 27, 2006 Technical Memorandum submitted by Fehrs and Peers, Transportation Consultants, on behalf of the developer.. Both the east and west phases will have drop-off/pick-up areas outside of the circulation pattern for the garages.

(9) Service and delivery Access and loading/unloading Areas must be included in the Site plan. The service and delivery should be kept separate from pedestrian Areas.

Complies

Service and delivery, particularly for the Montage hotel, are located within the garage level. The garage door and loading areas can accommodate a semi-truck.

*(H) **LANDSCAPE AND STREETScape.** To the extent possible, existing Significant Vegetation shall be maintained on Site and protected during construction. Where landscaping does occur, it should consist primarily of appropriate drought tolerant species. Lawn or turf will be limited to a maximum of fifty percent (50%) of the Area not covered by Buildings and other hard surfaces and no more than seventy-five percent (75%) of the above Area may be irrigated. Landscape and Streetscape will use native rock and boulders. Lighting must meet the requirements of LMC Chapter 15-5, Architectural Review.*

Complies

Minimal vegetation currently exists due to the mining activities associated with the site. Landscaping will be accomplished using native and other appropriate drought-

tolerant plant materials in accordance with the Flagstaff Design Guidelines. A small formal lawn area is proposed on the south side of the Montage. Irrigation will be principally by drip.

*(I) **SENSITIVE LANDS COMPLIANCE.** All MPD Applications containing any Area within the Sensitive Areas Overlay Zone will be required to conduct a Sensitive Lands Analysis and conforms to the Sensitive Lands Provisions, as described in LMC Section 15-2.21.*

Complies

The Flagstaff Annexation is not included in the Sensitive Lands Overlay. However, there is one locally rare native plant that has been identified by the Utah Native Plant Society. The applicant has been in contact with the UNPS to identify the location of the plant colony and to take steps to preserve it. The plant is not located within the development area.

*(J) **EMPLOYEE/AFFORDABLE HOUSING.** MPD Applications shall include a housing mitigation plan which must address employee Affordable Housing as required by the adopted housing resolution in effect at the time of Application.*

Complies

Additional employee/affordable housing is required with the increased 80 Unit Equivalents. The mitigation rate in the original Development Agreement would increase the housing requirement by 5.7 Affordable Employee Units (AEUs). In accordance with the Development Agreement, 25% of the required housing must be on-mountain. The Montage is programming 10 units on-site which include the 5.7 and additional AEUs for the rest of Empire Pass.

*(K) **CHILD CARE.** A Site designated and planned for a Child Care Center may be required for all new single and multi-family housing projects if the Planning Commission determines that the project will create additional demands for Child Care.*

Complies

Staff does not recommend that a Child Care Center be provided on-site. Limited permanent Child Care demands will be generated by the hotel and condominiums.

Approval: The Planning Commission based their decision on the Analysis, above, and the following:

Findings of Fact

1. The Master Planned Development (MPD) is for Pod B-2 of the Flagstaff Mountain Resort Annexation area, know known as Empire Pass.
2. The MPD is located in the RD-MPD zoning district.
3. The City Council approved the Development Agreement for Flagstaff Mountain Development Agreement/Annexation Resolution No. 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement sets forth maximum project densities, location of densities, and developer-offered amenities.

4. The City Council approved an amendment to the Development Agreement on February 1, 2007, that increased the allowable density by 80 Unit Equivalents, 192 hotel rooms (included in the 80 UEs) and the allowable units by 77.5, to be located in the B-2 MPD.
5. Concurrent with this application and approval, the Planning Commission approved the Conditional Use Permit for Phase I of this MPD on March 14, 2007. Phase I is the Montage Hotel to be located on the west side of the Empire Day Lodge (B-2 West).
6. Concurrent with this application, the Planning Commission forwards a positive recommendation to the City Council for the amended Pod B-2 Empire Village Subdivision.
7. The total number of units approved with this MPD are 192 hotel rooms using 69.6 Unit Equivalents (UEs) and 94 hotel condominiums (114 UEs) in the west side of the Empire Day Lodge (B-2 West) and 81 condominiums (81 UEs) on the east side of the Empire Day Lodge (B-2 East). In addition, there is 35,000 square feet of spa space, 28,059 square feet of bar/restaurant/retail space and approximately 15,000 square feet of meeting/conference space and lounge areas.
8. The maximum Building Height in the RD District is 28 feet (33 feet with a pitched roof). A height exception to 114 feet above a benchmarked grade (USGS 8346') is requested.
9. The volumetrics as shown in the exhibits dated April 24, 2006, and reviewed by the Planning Commission provide the façade shifts and roof shifts necessary to create architectural interest and break the building into smaller components.
10. The setbacks within the RD zone are twenty feet (20') in the front (25 feet to front facing garage), fifteen feet (15') to the rear and twelve feet (12') on the side. Setbacks are the minimum distance between the closest of the following: property line, platted street, or existing curb or edge of street.
11. The elevation and climate of Flagstaff creates a harsh environment for utilities and their maintenance.
12. The Development Agreement requires the Master Developer to provide water source capacity.
13. The Flagstaff Mountain Resort Development Agreement, as amended, requires reclamation of mine hazards.
14. The **Analysis** section of this staff report is incorporated herein.

Conclusion of Law:

1. The MPD, as conditioned, complies with all the requirements of the Land Management Code.
2. The MPD, as conditioned, meets the minimum requirements of Section 15-6-5 of this Code.
3. The MPD, as conditioned, is consistent with the Park City General Plan.
4. The MPD, as conditioned, provides the highest value of open space, as determined by the Planning Commission.
5. The MPD, as conditioned, strengthens and enhances the resort character of Park City.

6. The MPD, as conditioned, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible.
7. The MPD, as conditioned, is Compatible in Use, scale and mass with adjacent Properties, and promotes neighborhood Compatibility.
8. The MPD provides amenities to the community so that there is no net loss of community amenities.
9. The MPD, as conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
10. The MPD, as conditioned, meets the provisions of the Sensitive Lands provisions of the Land Management Code. The project has been designed to place Development on the most Developable Land and least visually obtrusive portions of the Site.
11. The MPD, as conditioned, promotes the Use of non-vehicular forms of transportation through design and by providing trail connections.
12. The MPD has been noticed and public hearing held in accordance with this Code.
13. The MPD, as conditioned, is consistent with the approved Flagstaff Mountain Resort Development Agreement, as amended.

Conditions of Approval:

1. The building plans and volumetrics for the project shall meet substantial compliance with the drawings dated April 24, 2006, and as reviewed by the Planning Commission.
2. A height exception for the Montage to 114 feet above a benchmarked grade (USGS 8346') is granted with the Master Plan. A height exception for the east side condominiums to 82 feet above benchmarked grades (USGS 8330' for north datum point and 8380' for south datum point) is granted with the Master Plan. Datum points are indicated on the site plans reviewed by the Planning Commission.
3. City Engineer approval of a utility and infrastructure plan is a condition precedent to the issuance of any building permits within the B-2 Master Planned Development area. The utility plan may include temporary utilities that must be removed (not just abandoned) upon completion of permanent utilities.
4. All regulated soils will be removed from the site and transported via SR 224 and SR 248 to the engineered repository at Richardson Flats. A specific hauling plan, similar to the previous soils hauling operation, must be approved by the Chief Building Official and will incorporate safety inspections, daily reports, and coordination between the City Police and Utah Highway Patrol.
5. Prior to issuance of any building permits for that unit or building which causes overall water consumption at Empire Pass to exceed 150 gallons per minute (approximately 75 units), the Master Developer shall have provided adequate water source capacity satisfactory to the City Attorney and Public Works Director.
6. A revised Mine Soils Hazard Remediation Technical Report (Exhibit 1 of the Technical Reports) shall be submitted to the Chief Building Official. Approval of the revised plan shall have been made by the Building Official prior to any building permit being issued. Prior to vertical construction of the project, UPCM

shall provide acknowledgement from the State of compliance with State mining regulations regarding operation, reclamation, surety, and post-mining land use permit requirements.

7. A revised Emergency Response Plan (Exhibit 7 of the Technical Reports) shall be submitted to the Chief Building Official. Approval of the revised plan shall have been made by the Building Official prior to any building permit being issued. The fire protection component of the plan shall ensure that Park City's ISO rating is not negatively affected by construction of the Montage.
8. The revised Transit Plan dated November 27, 2006, as submitted by Fehr and Peers, Transportation Consultants, on behalf of the applicant will be implemented at Certificate of Occupancy for the Montage Hotel.
9. The \$1.8 million bond for the Richardson Flats Park and Ride, in a form approved by the City Attorney, shall be posted prior to any building permit issuance.
10. The 30 acres at Richardson Flats for the Park and Ride and future recreation facilities will be dedicated to the City (unless the City agrees to a lease), in a form approved by the City Attorney, prior to building permit issuance.
11. The additional 20 Employee Housing Units will begin construction within 24 months from the effective date of the amended Development Agreement (March 2, 2007) or post a financial guarantee in a form acceptable to the City Attorney equal to 10 percent of the estimated construction costs of the additional Affordable Units.

Sincerely,

Brooks T. Robinson
Principal Planner

Planning Commission Staff Report



Application #: PL-16-03209
Subject: Deer Crest Master Planned Development and Settlement Agreement (Third Amendment to the Settlement Agreement)
Author: Kirsten Whetstone, MS, AICP- Senior Planner
Date: December 14, 2016
Type of Item: Master Planned Development/Settlement Agreement Amendment

Summary Recommendations

Staff recommends Planning Commission conduct a public hearing and discuss a request to amend the Deer Crest Master Planned Development and Settlement Agreement to remove a requirement that Deer Hollow Road be physically disconnected at the time of development of the Slalom Village parcel. Staff recommends discussion of the items listed below and requests continuation to February 22, 2017 to allow City Staff time to engage in additional public outreach, weigh public input and draft appropriate findings and potential conditions to support direction provided by Planning Commission and the community. **Staff requests discussion on the following items (see analysis section of this report).**

1. Discuss pros and cons of allowing Deer Hollow Road to function as it currently does (without a disconnect) versus requiring a permanent, physical disconnect within the Slalom Village parcel. East and west perimeter control gates to remain.
2. Discuss conditions and mechanisms to measure and monitor the effectiveness of the east and west perimeter control gates in meeting the original intent of the physical disconnect, which was to reduce through traffic from US 40 to Park City (and vice versa) and protect Park City neighborhoods outside of the west perimeter gate.
3. Discuss potential conditions that could be added to the Slalom Village parcel, to allow for emergency vehicles, snow plows, service and delivery vehicles, pedestrians, and cyclists to continue to use Deer Hollow Road and by-pass the disconnect, if the Commission is not in favor of the proposed Amendment to eliminate the disconnect.
4. Discuss the potential for allowing overflow traffic use of Deer Hollow Road, for specific events, high traffic volume days and other situations, with certain conditions.
5. Discuss impacts on emergency vehicle access and use of Deer Hollow Road for evacuation purposes.
6. Review and discuss whether the proposed MPD Amendment satisfies applicable MPD review criteria and whether required conclusions of law for approval of an MPD can be made.

Description

Applicant:	Deer Crest Associates I, L.C., represented by Thomas G. Bennett, Ballard Spahr Law
Location:	Deer Hollow Road in the vicinity of the Deer Crest Chairlift, within the Deer Crest Master Planned Development
Zoning:	Recreation Commercial- Master Planned Development (RC-MPD)
Adjacent Land Uses:	Deer Valley Resort, St. Regis Hotel and Residences, single family homes of Snowtop and Deer Crest Estates, and open space.
Reason for Review:	Amendments to Master Planned Developments require Planning Commission review, public hearing, and final action by the Planning Commission.

Proposal

The applicant, Deer Crest Associates I, L.C., developer of the Deer Crest Master Planned Development community, is successor in interest to Trans Wasatch Company, L.L.C. and Park City Consolidated Mines Company in matters related to the Deer Crest Settlement Agreement (Settlement Agreement) dated December 29, 1995. The applicant submitted a request for a Third Amendment to the Settlement Agreement (which acts as the Master Planned Development for the property) to eliminate the requirement for a physical disconnection of Keetley Road (aka Deer Hollow Road) in the vicinity of a development parcel known as the Slalom Village parcel. Purpose of the disconnect requirement was to prevent through traffic between Jordanelle basin/US 40 and Park City. The Deer Crest Master Association (DCMA) is supportive of the Amendment and believes it is in the best interest of the Deer Crest community to eliminate this requirement, provided however, that the east and west perimeter control gates into the Deer Crest area remain in place. See Staff Report Exhibit A, applicant's letter and exhibit attachments, as follows:

- Exhibit A- Excerpt from Settlement Agreement (existing disconnect language)
- Exhibit B- Queen Ester Settlement Agreement and Release
- Exhibit C- Letter to Mark Harrington dated August 1, 2013 with attachments
- Exhibit D- Answers to Planning Department Questions
- Exhibit E- Letter dated November 18, 2015 to Queen Ester HOA Board
- Exhibit F- Letter to Park City Council from Wasatch County dated November 3, 2015
- Exhibit G- Proposed language for the Third Amendment to the Settlement Agreement

Background

The Deer Crest Settlement Agreement by and between Park City Consolidated Mines Company and Trans-Wasatch Company, L.L.C and Park City Municipal Corporation was executed on December 29, 1995. A First Amendment to the Agreement (aka the First Amendment to the Telemark Park Settlement Agreement) was entered into on April 8, 1997 (Exhibit F). Items of the First Amendment included the following: 1) clarified density, use and configuration, and location of the development areas; 2) addressed timing of annexation of and permit issuance for the Snowtop/Hidden Hollow, Slalom Village, and Roosevelt Gap Areas; 3) moved the previous 20,000 sf ski

academy (and parking limitation) from the Slalom Village Area to Telemark Park Village (aka Jordanelle Village Resort) outside of the east perimeter gate and increased the single family lots by one to five (5); 4) added right to construct ski runs and lifts to the section pertaining to the right to construct roads under certain conditions, and 5) included additional stipulations related to ski lifts, ski runs, open space, trails, other road construction, gates, utilities, and ski runs.

A Second Amendment to the Agreement (aka the Second Amendment to the Telemark Park Settlement Agreement) was entered into on April 6, 2001 between Park City Consolidated Mines Company, Inc., Trans-Wasatch Company L.L.C. and Park City (Exhibit G). The purpose of the Second Amendment was to increase by the density of Hidden Hollow subdivision by one single family lot, thus increasing the total number of single family lots lying west of the east perimeter gate by one to 151 (from 150) and increasing the total number of units by one to 546 units (from 545); amending related exhibits, and amending the annexation agreement for Alternative A for the Roosevelt Gap/Snow Park Hotel Area (now known as the St. Regis Resort approved with the Deer Crest Hotel Conditional Use Permit) to allow the Planning Commission to approve up to 105 overnight parking spaces at Roosevelt Gap.

The Settlement Agreement property consists of approximately 678 acres, of which 523 are located within Wasatch County and 155 acres are located within Summit County. The property is generally located between Deer Valley Drive East and US 40. At the time of the Agreement a majority of the property was located within the unincorporated areas of these counties. The Settlement Agreement requires Property Owner and/or Homeowners' Association responsibility for the permanent maintenance of all perimeter gates, roads, hard surfaced pedestrian and bike pathways, including snow removal,

On December 17th, 1998, Park City annexed 253 acres of this property as the Deer Crest Annexation (Ordinance 98-53) and 84 acres as the Hidden Hollow Annexation (Ordinance 98-52) (See Exhibit I). The remaining property was developed in unincorporated Wasatch County. Access to a majority of the Deer Crest Community is from US 40 at the Mayflower interchange via the east perimeter control gate (also known as the Jordanelle gate house). Access from Park City to the Deer Crest Community is from Deer Valley Drive to Queen Ester Drive and to Deer Hollow Road via the west perimeter control gates (also known as the Queen Ester gate house). (See Exhibits B and C- location maps and aerial photo of the Deer Crest area).

Two other parcels were developed in Park City, namely the Roosevelt Gap parcel with the St. Regis Hotel and the Snow Park Hotel parcel with the funicular connecting to Roosevelt Gap, parking, and two employee housing units and one residential condominium unit within the funicular building. Phases 2 and 3 of the St. Regis Hotel (aka Deer Crest Hotel CUP) (future residential condominiums) are also approved at the Snow Park Hotel site but have not been constructed. Parking and access through the west perimeter gates for the St. Regis Hotel (approved as the Deer Crest Hotel CUP) is subject to the Settlement Agreement, as amended, and is reflected in the CUP conditions of approval (Exhibit H). This proposed Third Amended Settlement Agreement does not request changes to the Deer Crest Hotel CUP.

Subject property, e.g. the general location of the required disconnect, is zoned Recreation Commercial- Master Planned Development (RC-MPD).

During construction of the St. Regis Hotel in 2007-2009, the temporary disconnect (metal crash gates and boulders) was removed. The Chief Building Official at that time made a determination that for health and safety reasons Keetley Road should be opened and continually paved as long as the east and west perimeter gates were installed as permanent gates and monitored per the Agreement. The disconnection on Keetley Road was never re-installed.

On June 9, 2016, the applicant submitted an application for an amendment to the Deer Crest MPD and Third Amendment to the Settlement Agreement. The application was deemed complete upon submittal of a revised surrounding property owner mailing list and envelopes on November 22, 2016.

Purpose of the RC Zone

The purpose of the Recreation Commercial (RC) District is to:

- A. allow for the Development of hotel and convention accommodations in close proximity to major recreation facilities,
- B. allow for resort-related transient housing with appropriate supporting commercial and service activities,
- C. encourage the clustering of Development to preserve Open Space, minimize Site disturbance and impacts of Development, and minimize the cost of construction and municipal services,
- D. limit new Development on visible hillsides and sensitive view Areas,
- E. provide opportunities for variation in architectural design and housing types,
- F. promote pedestrian connections within Developments and to adjacent Areas,
- G. minimize architectural impacts of the automobile,
- H. promote the Development of Buildings with designs that reflect traditional Park City architectural patterns, character, and Site designs,
- I. promote Park City's mountain and Historic character by designing projects that relate to the mining and Historic architectural heritage of the City, and
- J. promote the preservation and rehabilitation of Historic Buildings

Process

Approval or denial of this request to amend the MPD by the Planning Commission constitutes Final Action that may be appealed to City Council following procedures found in Land Management Code § 1-18. The previous amendments to the Agreement were reviewed by the Planning Commission at the time of the proposed Deer Crest and Hidden Hollow Annexations and the Planning Commission made a recommendation to City Council on the Settlement Agreement items. Amendments to the Settlement Agreement require a Planning Commission recommendation to City Council for final action.

Analysis

Master Planned Development Review Criteria

Master Planned Developments, and amendments to them, are to be reviewed according to the following items as outlined in Section 15-6-5 of the Land Management Code (*LMC language in italics, staff analysis in bold*).

(A) **DENSITY.** *The type of Development, number of units and Density permitted on a given Site will be determined as a result of a Site Suitability Analysis and shall not exceed the maximum Density in the zone, except as otherwise provided in this section. The Site shall be looked at in its entirety and the Density located in the most appropriate locations.*

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

(B) **MAXIMUM ALLOWED BUILDING FOOTPRINT FOR MASTER PLANNED DEVELOPMENTS WITHIN THE HR-1 AND HR-2 DISTRICTS. (Not applicable)**

(C) **SETBACKS.** *The minimum Setback around the exterior boundary of an MPD shall be twenty five feet (25') for Parcels greater than one (1) acre in size.*

No changes are proposed to the minimum Setbacks around the exterior boundary of the MPD. Interior setbacks will be determined at the time of Conditional Use Permit for specific development of Slalom Village.

(D) **OPEN SPACE.** *All Master Planned Developments shall contain a minimum of sixty percent (60%) open space with open space as defined in LMC Chapter 15-15 with the exception of the General Commercial (GC) District, Historic Residential Commercial (HRC), Historic Commercial Business (HCB), Historic Residential (HR-1 and HR-2) zones, and wherein cases of redevelopment of existing Developments the minimum open space requirement shall be thirty percent (30%).*

The project is located in the RC zone and is not exempt from open space requirements of the MPD. No changes to the open space requirements are proposed. Development parcels within the annexed areas were zoned RC-MPD with non-development parcels zoned Recreation Open Space (ROS) to be maintained as open space.

*(E) **OFF-STREET PARKING.** The number of Off-Street Parking Spaces in each Master Planned Development shall not be less than the requirements of this Code, except that the Planning Commission may increase or decrease the required number of Off-Street Parking Spaces based upon a parking analysis submitted by the Applicant at the time of MPD submittal.*

The applicant is not requesting an increase or a decrease in the parking requirements that were approved with the MPD and Settlement Agreement, as amended. Unless otherwise specified in the Settlement Agreement, parking is calculated per the Land Management Code in effect at the time of any Conditional Use Permit application and the Planning Commission may consider increasing or decreasing the parking based on a parking study specific to the application.

*(F) **BUILDING HEIGHT.** The height requirements of the Zoning Districts in which an MPD is located shall apply except that the Planning Commission may consider an increase in height based upon a Site specific analysis and determination. The Applicant will be required to request a Site specific determination and shall bear the burden of proof to the Planning Commission that the necessary findings can be made. In order to grant Building height in addition to that which is allowed in the underlying zone, the Planning Commission is required to make findings, as stated in the LMC.*

No specific height requirements are specified for the Slalom Village parcel.

*(G) **SITE PLANNING.** An MPD shall be designed to take into consideration the characteristics of the Site upon which it is proposed to be placed. The project should be designed to fit the Site, not the Site modified to fit the project. The following shall be addressed in the Site planning for an MPD:*

(1) Units should be clustered on the most developable and least visually sensitive portions of the Site with common open space separating the clusters. The open space corridors should be designed so that existing Significant Vegetation can be maintained on the Site.

Clustering of units is provided for within the MPD with the Slalom Village development parcel identified and the area around it designated for open space.

(2) Projects shall be designed to minimize Grading and the need for large retaining Structures.

This requirement is also discussed in the Settlement Agreement/MPD with specific grading plans to be reviewed at the time of any Conditional Use Permit. This is not impacted by the requested MPD Amendment.

(3) Roads, utility lines, and Buildings should be designed to work with the Existing Grade. Cuts and fills should be minimized.

This requirement, pertaining to Buildings, will be reviewed at the time of any Conditional Use Permit and/or subdivision plat. The MPD Amendment doesn't change the location of roads relative to Existing Grade, or cuts and fills.

(4) Existing trails should be incorporated into the open space elements of the project and should be maintained in their existing location whenever possible. Trail easements for existing trails are recorded on the subdivision plat. Construction of any new trails will be required consistent with the Park City Trails Master Plan.

The MPD Amendment will not make changes to trails or trail easements. If the disconnect is required to remain, pedestrian and cyclist access should not be restricted.

(5) Adequate internal vehicular and pedestrian/bicycle circulation should be provided. Pedestrian/ bicycle circulations shall be separated from vehicular circulation and may serve to provide residents the opportunity to travel safely from an individual unit to another unit and to the boundaries of the Property or public trail system. Private internal Streets may be considered for Condominium projects if they meet the minimum emergency and safety requirements.

The proposed MPD Amendment would enhance internal vehicular and pedestrian/bicycle circulation for residents within the Deer Crest/Hidden Hollow/Snowtop/St Regis Hotel Neighborhood area, by keeping the loop open within the area (keeping the perimeter gates in place). There will continue to be relatively direct access between the various subdivisions and hotels. Additionally, service and delivery, employee vans, guests and owners of the St. Regis Hotel, approaching from US 40 and the east gate, will take a more direct route using Deer Hollow Road, as opposed to Deer Crest Estates Drive. Deer Crest Estates Drive is a more circuitous route through a residential neighborhood. Creation of two dead end roads interrupts a more efficient loop route for internal circulation within (inside the two gates) the Deer Crest/Hidden Hollow/Snowtop/St. Regis Hotel Neighborhood.

The Settlement Agreement does include a provision for a gated emergency /utility road (one that does not allow general public access, but it is not clear whether it would allow service and delivery vehicles) to by-pass the disconnect, but this provision is only identified in Section 5.2.3.5 and 5.2.3.8 specific to the conditions of development without annexation to Park City, and therefore don't currently apply. If the MPD Amendment is not approved, pedestrian and bicycle access should be provided. The Commission could also require such a by-pass road for specific vehicles, although the topography of the area should be taken into consideration.

(6) The Site plan shall include adequate Areas for snow removal and snow storage. The landscape plan allows for snow storage Areas. The assumption is that snow should be able to be stored on Site and not removed to an Off-Site location.

Snow removal and snow storage for the Slalom Development parcel are not changed with the proposed MPD Amendment. Specifics of snow removal and snow storage are reviewed at the time of the Conditional Use Permit review. Creation of two dead end roads interrupts a more efficient loop route for snow removal services, and requires two large turn around areas to be constructed. The road is relatively steep (about 10%) in this area and the terrain within the Slalom Village parcel slopes down from north to south at a 50-60% slope with the north side of the road steeper than the south.

(7) It is important to plan for trash storage and collection and recycling facilities. The Site plan shall include adequate Areas for trash dumpsters and recycling containers, including an adequate circulation area for pick-up vehicles. These facilities shall be enclosed and shall be included on the site and landscape plans for the Project. Pedestrian Access shall be provided to the refuse/recycling facilities from within the MPD for the convenience of residents and guests.

Creation of two dead end roads at Slalom Village interrupts a more efficient loop route for refuse and recycling collection within the Deer Crest neighborhood. Specifics of trash dumpsters and recycling containers, and the screening of these facilities, are reviewed at the time of the Conditional Use Permit review. The Settlement Agreement does include a provision for a gated emergency /utility road (one that does not allow general public access) to by-pass the disconnect, but this provisions is only identified in Section 5.2.3.5 and 5.2.3.8 which are specific to the conditions of development without annexation to Park City, and therefore don't currently apply. If the MPD Amendment is not approved the Commission could request such a by-pass road for specific use as an alternative to construction of two large turn around areas for these large vehicles (snow plows, trash trucks, emergency fire trucks, etc.).

(8) The Site planning for an MPD should include transportation amenities including drop-off Areas for van and shuttle service, and a bus stop, if applicable.

The MPD encourages reduction of vehicular trips. A more direct route from US 40 to the Hotel for van and shuttle service and employee shuttles is more conducive to successful reduction in vehicular trips within the MPD. The applicant should address how the existing east and west perimeter gates will provide an equally effective means of preventing through traffic, as the disconnect would do.

(9) Service and delivery Access and loading/unloading Areas must be included in the Site plan. The service and delivery should be kept separate from pedestrian Areas.

Site specific items regarding service and delivery and loading/unloading areas are reviewed at the time of a Conditional Use Permit. See #5 for service and delivery vehicle circulation within the MPD.

*(H) **LANDSCAPE AND STREETSCAPE.** A complete landscape plan must be submitted with the MPD application. The landscape plan shall comply with all criteria and requirements of LMC Section 15-5-5 (M) Landscaping. All noxious weeds, as*

identified by Summit County, shall be removed from the Property in accordance with the Summit County Weed Ordinance prior to issuance of Certificates of Occupancy. Lighting must meet the requirements of LMC Chapter 15-5, Architectural Review.

Site specific items such as landscaping, streetscape, exterior lighting, etc. are reviewed at the time of the Conditional Use Permit. This Amendment does not impact these criteria.

*(I) **SENSITIVE LANDS COMPLIANCE.** All MPD Applications containing any Area within the Sensitive Areas Overlay Zone will be required to conduct a Sensitive Lands Analysis and conform to the Sensitive Lands Provisions, as described in LMC Section 15-2.21.*

The MPD development parcels were identified based on a review of Sensitive Lands issues. This proposed Amendment does not change the location of development parcels.

*(J) **EMPLOYEE/AFFORDABLE HOUSING.** MPD Applications shall include a housing mitigation plan which must address employee Affordable Housing as required by the adopted housing resolution in effect at the time of Application.*

The MPD and Settlement Agreement include affordable housing requirements for development related to Slalom Village.

*(K) **CHILD CARE.** A Site designated and planned for a Child Care Center may be required for all new single and multi-family housing projects if the Planning Commission determines that the project will create additional demands for Child Care.*

No requirements for a designated Child Care Center are included in the MPD and Settlement Agreement pertaining specifically to development of Slalom Village.

*(L) **MINE HAZARDS.** All MPD applications shall include a map and list of all known Physical Mine Hazards on the property and a mine hazard mitigation plan.*

The MPD and Settlement Agreement do not include conditions related to this item. Staff recommends a condition be added to the Slalom Village development parcel to address these MPD criteria, which was included in the LMC after the MPD and Settlement Agreement were approved.

*(M) **HISTORIC MINE WASTE MITIGATION.** For known historic mine waste located on the property, a soil remediation mitigation plan must be prepared indicating areas of hazardous soils and proposed methods of remediation and/or removal subject to the Park City Soils Boundary Ordinance requirements and regulations. See Title Eleven Chapter Fifteen of the Park City Municipal Code for additional requirements.*

Staff recommends a condition be added to the Slalom Village development parcel to address these MPD criteria, which was included in the LMC after the MPD and Settlement Agreement were approved.

*(N) **GENERAL PLAN REVIEW.** All MPD applications shall be reviewed for consistency with the goals and objectives of the Park City General Plan, however such review for consistency shall not alone be binding.*

- Maintain Park City resort and neighborhood character
- Protect neighborhoods from impacts of development
- Provide pedestrian amenities and connections
- Efficient provisions of services and emergency response
- Efficient vehicular circulation/best transportation practices/no conflicts with transportation /reduction of trips

*(O) **HISTORIC SITES.** All MPD applications shall include a map and inventory of Historic Structures and Sites on the Property and a Historic Structures Report, as further described on the MPD application. The Historic Structures Report shall be prepared by a Qualified Historic Preservation Professional.*

Staff recommends a condition be added to the Slalom Village development parcel to address Historic Sites. This criterion was included in the LMC after the MPD and Settlement Agreement were approved.

Conclusions of Law required for Master Planned Developments

In reviewing this application, Staff and the Commission should incorporate into the discussion and consider whether the following findings, if applicable, can be made before taking any final action on this application. **The Commission should also consider whether additional conditions of approval are needed in order to make these conclusions:**

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

11. The MPD has been noticed and public hearing held in accordance with this Code.
12. The MPD incorporates best planning practices for sustainable development, including water conservation measures and energy efficient design and construction, per the Residential and Commercial Energy and Green Building programs and codes adopted by the Park City Building Department in effect at the time of the Application.
13. The MPD addresses and mitigates Mine Waste and complies with the requirements of the Park City Soils Boundary Ordinance.

Department Review

This project has gone through an interdepartmental review at a Development Review meeting consisting of various City Departments and various service providers. Service providers at the meeting, both emergency service and utility providers, expressed support for the elimination of the disconnection, for reasons of better emergency access and more efficient delivery and provision of services to the area (or to keep the current situation intact).

Concerns regarding operation and monitoring of the east and west perimeter vehicle control gates were discussed, as well as the opportunity to include additional mechanisms and conditions in order to have better oversight as to management of these gates. Responsibility for operation and maintenance of the perimeter gates belongs to the Property owners and homeowners' association.

There was also discussion about the potential for overflow traffic and emergency evacuation use of Deer Hollow Road, for specific events and situations, provided specific conditions are met. It was requested that these item be discussed by the Planning Commission at the public hearing.

Staff will also convene the Development and Services Providers Committee for the Deer Crest Interlocal Agreement prior to the next meeting and provide minutes of that discussion.

Notice

On November 30, 2016, the property was posted and notices of the public hearing were mailed to property owners within the Deer Crest HOA as well as to property owners with 300 feet of the lower west perimeter Deer Crest gate. Legal notice was published in the Park Record, City Website, and on the Utah Public Notice Website on November 26, 2016.

Public Input

Planning Staff mailed out approximately 400 letters to property owners within the Deer Crest community as well as those within 300 feet of the west perimeter control gate. Staff has received numerous phone calls requesting information about the location of the disconnect site, the future development of Slalom Village, and whether the control gates would remain in place. See Exhibit E for public input received prior to this packet date.

Recommendations

Staff recommends the Planning Commission conduct a public hearing and discuss a request to amend the Deer Crest Master Planned Development and Settlement Agreement to remove a requirement that Deer Hollow Road be physically disconnected at the time of development of the Slalom Village parcel. Staff recommends discussion of the items listed on the first page and requests continuation to February 22, 2017 to allow City Staff time to engage in additional public outreach, weigh public input and draft appropriate findings and potential conditions to support direction provided by Planning Commission and the community.

Exhibits

Exhibit A- Applicant's letter and exhibits

Exhibit B- Location maps

Exhibit C- Aerial photo overview of Deer Crest area and topographic map

Exhibit D- Additional background information

Exhibit E- Public input received to date

Exhibit F- First Amended Settlement Agreement

Exhibit G- Second Amended Settlement Agreement

Exhibit H- Deer Crest Hotel CUP approval (and most recent amendment) action letters

Exhibit I – Annexation ordinances from 12/17/1998.

One Utah Center, Suite 800
201 South Main Street
Salt Lake City, UT 84111-2221
TEL 801.531.3000
FAX 801.531.3001
www.ballardspahr.com

Thomas G. Bennett
Tel: 801.531.3060
Fax: 801.531.3001
bennett@ballardspahr.com

June 8, 2016

Via E-mail

Ms. Kirsten A. Whetstone
Senior Planner
Park City Municipal Corporation
445 Marsac Avenue
P.O. Box 1480
Park City, UT 84060-1480

Re: Proposed Amendment to 1995 Deer Crest Settlement Agreement

Dear Kirsten:

As you are aware, on August 1, 2013 and December 11, 2015 I submitted letters to Mark Harrington requesting an amendment to the Settlement Agreement dated December 29, 1995 between Trans-Wasatch Company, L.L.C., Park City Consolidated Mines Company and Park City Municipal Corporation (as amended, the "Settlement Agreement"). Those letters requested a modification to Section 5.2.3.4 of the Settlement Agreement to eliminate the requirement that there be a permanent disconnect preventing east-west access between Highway 40 and Park City through the Deer Crest community via Deer Hollow Drive, which was formerly known as "Keetley Road." You recently indicated that it would be necessary to submit an Application for an Amendment to an MPD in order for the City to process this request. Accordingly, enclosed please find the following:

1. Application for Amendment to Master Planned Development.
2. My letter dated December 11, 2015, which is submitted to satisfy the requirement for a written statement describing the request (item 3 of the Application form). In your February 26, 2016 email you indicated that this would be sufficient. That letter also includes multiple exhibits which provide additional documentation supporting this request.
3. Copy of the Settlement Agreement, in satisfaction of submittal item 4 of the Application.
4. The following drawings and photographs which you previously indicated would be sufficient to satisfy submittal requirement for item 6 of the Application:
 - a. Aerial photo showing the approximate location of the disconnect as originally intended;

DMWEST #14481401 v1



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FILE COPY

One Utah Center, Suite 800
201 South Main Street
Salt Lake City, UT 84111-2221
TEL 801.531.3000
FAX 801.531.3001
www.ballardspahr.com

Thomas G. Bennett
Tel: 801.531.3060
Fax: 801.531.3001
bennett@ballardspahr.com

December 11, 2015

Via FedEx

Mark Harrington
Park City Municipal Corporation
445 Marsac Avenue
Post Office Box 1480
Park City, UT 84060

Re: Deer Hollow Road (f/k/a Keetley Road) Disconnect

Dear Mark:

This firm represents Deer Crest Associates I, L.C. ("DCA"), the developer of the Deer Crest community ("Deer Crest"), in the matters that follow. DCA is the successor in interest to Trans-Wasatch Company, L.L.C. and Park City Consolidated Mines Company with respect to the Settlement Agreement dated December 29, 1995 (as amended, the "Settlement Agreement") with Park City Municipal Corporation ("City"). The purpose for this letter is to re-engage with the City on a proposal to amend the Settlement Agreement to eliminate the requirement for the physical disconnection of Keetley Road (now known, and in this letter referred to, as "Deer Hollow Road") as it passes through Deer Crest at the approximate location of a development parcel referred to in the Settlement Agreement as "Slalom Village".

As you will recall, Section 5.2.3.4 of the Settlement Agreement requires the permanent physical disconnection of Deer Hollow Road at the Slalom Village location, which is east of the St. Regis Hotel (the "Disconnect"), at such time as the primary structure for Slalom Village is constructed. A copy of this section of the Settlement Agreement is attached to this letter as Exhibit "A". In terms of my involvement, the impact of the Disconnect first came to light in 2009 in connection with an amendment to the CUP for the St. Regis Deer Valley Hotel (the "St. Regis"). At that time both Park City and Wasatch County expressed support for eliminating the Disconnect requirement out of concerns that implementation of the Disconnect would adversely affect emergency access to and from the St. Regis and many homes in the Deer Crest development. Over the course of the past six years there have also been negotiations between DCA and the Deer Crest Master Association ("DCMA") over the transfer of roads and open space parcels within Deer Crest from DCA to DCMA. In the course of those negotiations, which were finalized and implemented earlier this year, DCA and DCMA agreed that it was in the best interests of both to seek an amendment of the Settlement Agreement to eliminate the Disconnect requirement.

DMWEST #11347934 v4

Ms. Kirsten A. Whetstone
June 8, 2016
Page 2

- b. A map showing all roadways within Deer Crest, including Deer Hollow Drive;
- c. "Deer Crest Direction Map", which is another map of the roads within Deer Crest;
and
- d. Topographical map of existing conditions along Keetley Road.

You have indicated that submissions will not be required for items 7-11 of the Application Submittal Requirements. The Application fee of \$560 will be paid by phone as soon as you provide us with a permit number. As I previously mentioned to you, we have ordered a title report for this section of the road, but it will not be available until the middle of next week. I will have that delivered to you as soon as I receive it, together with the names and stamped envelopes for all property owners within 300 feet of this property.

Very truly yours,



Thomas G. Bennett

Enclosures

DMWEST #14481401 v1



The original purpose for the Disconnect was to assure that Deer Hollow Road did not become used for public access between the Jordanelle basin of Wasatch County and Park City. However, in the development of Deer Crest control gates were constructed at the east and west entrances to Deer Crest. These gates have effectively prevented public access through Deer Crest, and it is generally recognized that disconnecting Deer Hollow Road is unnecessary to prevent public access between Highway 40 and Park City. Keeping Deer Hollow Road intact also allows trucks and other large commercial delivery vehicles serving the St. Regis to enter exclusively through the Jordanelle gate into Deer Crest, rather than entering through the western gate in Deer Valley. Most importantly, keeping Deer Hollow Road as a thoroughfare provides substantially quicker access for emergency vehicles to the St. Regis and many of the homes in Deer Crest. As you may recall from the meeting we had with City officials on November 12, 2013, all of the public safety representatives present at that meeting from Park City and Wasatch County were supportive of eliminating the Disconnect requirement, as they felt that keeping Deer Hollow Road connected was important for emergency access.

There has been some question as to whether the Deer Crest control gates could at some point in the future be removed or left open, but such action would be a violation of the Master Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Deer Crest ("Master Declaration"). Specifically, Section 4.5(c)(iii) of the Master Declaration requires that "permanent control gates at the East and West entrances" shall be constructed and operated continuously. Owners of homes in Deer Crest see a substantial value in being a "gated community" and would strongly object to any efforts to remove the control gates. Removal of the gates might also violate the Settlement Agreement and Release dated August 1, 1996 between DCA and the Queen Esther Owners Association, a copy of which is attached hereto as Exhibit "B" ("Queen Esther Settlement Agreement"), which also requires, in Section 1.f., that permanent control gates be maintained at the east and west entrances to Deer Crest.

Our original request to amend the Settlement Agreement to eliminate the Deer Hollow Road Disconnect requirement was made in my letter to you dated August 1, 2013, a copy of which is attached as Exhibit "C". Following that letter, the Planning Department raised a few questions, which we have summarized and answered on attached Exhibit "D".

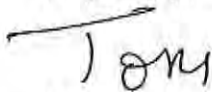
You have strongly suggested that we contact the Queen Esther community about this request. We have notified the Board of Directors of Queen Esther Village Project 1 Owners Association, in writing, of our intent to proceed with this request to have the Disconnect requirement eliminated. A copy of that letter is attached as Exhibit "E". In response to that letter I have had a phone call with Jerry Chizevar, an attorney and member of the board of the Queen Esther owners' association. He had a number of questions concerning the proposal and indicated that he did not expect the board to object to the elimination of the Disconnect requirement, although it is important to them that the east and west control gates into Deer Crest remain in place.

Eliminating the Disconnect requirement preserves the current traffic flow through Deer Crest, which has been operating effectively since the initial development of Deer Crest in 1997. This action is supported by public safety officials in Park City and Wasatch County, as well as by the Deer Crest Master Owners Association. A copy of a recent letter of support from Wasatch County is attached as Exhibit "F".

To proceed with the removal of the Disconnect requirement, we propose that an amendment to the Settlement Agreement, in the form attached as Exhibit "G", be reviewed and approved by the City Council. We respectfully request that such amendment be reviewed by staff and placed on the City Council's agenda for action. If there is any additional information needed in order to address this issue, please let me know.

If you have any questions or concerns about the foregoing, I would be happy to discuss them with you.

Very truly yours,



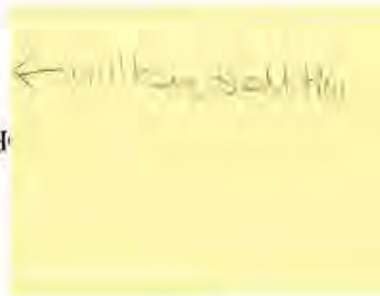
Thomas G. Bennett

TGB:mc

cc: Gregson Perry
Diane H. Banks
Diane Foster

List of Exhibits:

- A—Excerpt from Settlement Agreement
- B— Queen Esther Settlement Agreement
- C—Letter to Mark Harrington dated August 1, 2013
- D--Exhibit "E" to Deer Crest Master Declaration —
- E—Answers to Questions from Planning Dept.
- F--Letter dated November 18, 2015 to Queen Esther H
- G—Wasatch County Letter dated November 3, 2015
- H—Proposed Amendment to Settlement Agreement



Area to Telemark Park Village outside the eastern perimeter controlled access gate, in exchange for an increase of up to ten (10) multi-family units being added to the Snow Park Hotel Site, upon Park City's consent.

5.2.3.3 Development Alternative to Slalom Village. In the event Property Owners elect not to construct the development described in Section 5.2.3 above, then Property Owners shall have the right to develop a single family subdivision not to exceed twelve (12) lots in place of the 83 multi-family units. The twelve (12) lots shall be platted in Wasatch County and may be recorded within the Slalom Village development envelope with limits of disturbance established by Wasatch County and as generally depicted in Exhibit "S." The Park City staff and City Council have reviewed Exhibit "S," and found said exhibit to be generally acceptable as to density, use and configuration. The twelve (12) single-family lots are in addition to the four (4) lots shown on Exhibits "C" and "F" and the 20,000 square foot Ski Academy. Property Owners shall have the right to develop the 12 single-family lot subdivision and the 20,000 square foot Ski Academy as a Wasatch County development. In the event Property Owners elect to develop the twelve (12) single-family lot subdivision, then Property Owners shall realign and construct Keetley Road as depicted on Exhibit "S," wherein Slalom Village becomes a cul-de-sac that is not accessible from the eastern portion of Keetley Road except via St. Louis Drive.

5.2.3.4 Disconnection of Keetley Road at Slalom Village
Location. A permanent physical disconnection of Keetley Road shall occur at the Slalom Village Area location, which disconnection shall be accomplished as follows: (a) Upon the

platting of lots in the Little Baldy neighborhood or upper St. Louis neighborhood. Property Owners shall disconnect, either by steel gates and/or boulders and natural vegetation, Keetley Road so as to prevent vehicular through traffic in the Slalom Village Area; and (b) disconnection shall be permanent at the Slalom Village location upon the construction of the Primary Village Structure at Slalom Village (the footprint of which shall partially be within the historic configuration of Keetley Road right-of-way, such that the right-of-way is completely obstructed) or the construction of the cul-de-sac configuration described in Section 5.2.3.3. Upon the permanent physical disconnection, there shall be no reconnection of Keetley Road at the Slalom Village location. Nothing herein shall preclude the parking and internal circulation at the Primary Village Structure as described in Section 5.2.3.7.

5.2.3.5 Conditions of Development Absent Park City

Annexation. If the Slalom Village Area is not annexed into Park City pursuant to Sections 5.2.3.1 and 5.2.3.2, Property Owners may proceed to develop Slalom Village as a Wasatch County development so long as (a) the Property Owners seek development approval in Wasatch County for density in accordance with the configuration and development restrictions described herein and depicted in Exhibits "C," "F" or "S," (b) a ski chair lift shall be constructed within a 1,100 foot radius of the Primary Village Structure prior to the issuance of a certificate of occupancy for any portion of Slalom Village, (c) the Primary Village Structure shall be placed to physically disconnect the historical configuration of Keetley Road, and (d) the same area designated for dedication and conservation easements shall be preserved by conservation easements granted to and accepted by a public entity or a

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SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is executed as of August 1, 1996 by and between, The Queen Esther Village Project 1 Owners Association ("Queen Esther"), Trans Wasatch Company, L.L.C. ("Trans Wasatch"), Deer Crest Associates, I, L.C. ("Deer Crest"), and Park City Consolidated Mines ("PCCM") (Trans Wasatch, Deer Crest and PCCM are collectively referred to herein as the "Developers").

RECITALS

- A. Queen Esther is an incorporated association of homeowners within a part of the Queen Esther Condominium Project (the "Queen Esther Project"), a portion of which is in close proximity to a presently unimproved portion of Keetley Road located within Park City. Queen Esther has asserted both contractual rights and rights pursuant to Park City approvals with respect to certain land adjacent to the Queen Esther Project that is included within the approved master plan area for the Queen Esther Project including portions of the unimproved Keetley Road.
- B. Developers are successors in interest to the original developers of the Queen Esther Project in the ownership of the land adjacent to the Queen Esther Project. Developers desire to improve Keetley Road to provide access to a new real estate development to be known as Deer Crest (the "Deer Crest Project").
- C. Park City Municipal Corporation ("Park City") and Trans Wasatch and PCCM have engaged in litigation with respect to the right of the Developers to improve Keetley Road, and those parties have entered into a settlement agreement (the "Original Settlement Agreement") that would allow the improvement of Keetley Road as a private road in connection with the development of the Deer Crest Project, subject to certain

conditions, including the vacation by Park City of any public rights of vehicular access in Keetley Road.

D. Queen Esther has asserted that the implementation of the Original Settlement Agreement and the improvement of Keetley Road would violate the rights and interests of Queen Esther in the event certain provisions of the Original Settlement Agreement were not amended or added and in the event direct enforcement rights were not extended to Queen Esther to protect the interests of homeowners within the Queen Esther Project.

E. Queen Esther and Developers desire now to settle the dispute between them and to permit Keetley Road to be vacated by Park City and improved by Developer subject to the terms of this Agreement.

AGREEMENT

In consideration of the recitals and mutual promises contained herein, Queen Esther and Developers, and each of them, agree as follows:

1. Covenants and Agreements of Developers. Developers agree to the following covenants and other terms. Developers warrant that Deer Crest is the fee title holder and, where applicable, the long-term lessee of the real property within the Deer Crest Project. All obligations of Developers from and after the date of this Agreement shall be performed by Deer Crest, and its affiliates, partners, operators, successors and assigns, and TransWasatch and PCCM shall be released from liability for non-performance of those obligations. To the extent the following provisions conflict with the obligations of Developers under the Original Settlement Agreement, the parties to this



Agreement intend that the terms of this Agreement shall govern between Queen Esther and Developers, and their affiliates, partners, operators, successors and assigns:

a. Approved Drawings; Limits of Disturbance. The 10 pages of engineering drawings identified on Exhibit A hereto (the "Approved Drawings") for the Keetley Road segment located within Park City and adjacent to the Queen Esther Project (the "Park City Keetley Road Segment") shall be the basis for the construction of the Park City Keetley Road Segment other than with respect to the design of the control gate areas and the portions of any wall above the level of asphalt on the roadway. Developers represent that the base of the downhill retaining wall adjacent to the Queen Esther Project as shown on the Approved Drawings leaves not less than 5.0 feet of distance between the downhill face of the wall and the highest existing uphill aspen tree below the road and agree that the 5.0 foot area adjacent to the base of the wall shall constitute the limits of downhill area that will be disturbed in connection with the construction, maintenance or reconstruction of the Park City Keetley Road Segment (the "Limits of Disturbance Area"). The Limits of Disturbance Area specified by this Agreement shall control over any inconsistent specification of a limits of disturbance area in the Approved Drawings. Developers shall install surveyed construction stakes identifying the base of the downhill retaining wall and the Limits of Disturbance Area and provide Queen Esther with not less than 10 days notice prior to the commencement of construction and the installation of those stakes in order to afford Queen Esther the opportunity to confirm that the proposed construction of the road and the location of the Limits of Disturbance Area conform to the locations specified in this paragraph 1.a. Developers further agree to install temporary

fences pursuant to specification G-10 on the first page of the Approved Drawings within the Limits of Disturbance Area. Developers further agree that the retaining wall shall be constructed pursuant to detail KW1 on page G-10 of the Approved Drawings in order to reasonably minimize construction-related downhill impacts. Modifications to the Approved Drawings shall be subject to the approval of Queen Esther. Queen Esther acknowledges that Developers contemplate submitting to Queen Esther for its approval a redesign of the control gates shown on the Approved Drawings.

b. Wall Landscaping and Landscape Maintenance. The landscaping plan attached as part of the Approved Drawings shall be modified in general by locating the Picea Pungens evergreens, of a height of at least 12 feet at the time of installation, at a distance of from 7 to 15 feet from the base of the downhill retaining wall and from 15 to 20 feet apart. The particular location of trees shall be jointly decided by Developers and Queen Esther so as to minimize disturbance to existing trees and to maximize visual screening of the retaining wall from directly affected properties within the Queen Esther Project. Installation of the landscaping shall occur before the end of the next occurring spring or fall planting season following completion of the downhill retaining wall for Keetley Road adjacent to the Queen Esther Project. Developers agree to maintain the installed landscaping along the base of the downhill retaining wall, including watering, the removal of aspen to allow evergreen growth (with the approval of Queen Esther), and dead tree replacement, for the longer of 5 years after planting or the period necessary to establish the trees for survival without watering. In the absence of further notice from Queen Esther, for purposes of the approvals contemplated by paragraphs 1.a. and 1.b.,

the President of the Queen Esther homeowners' association, who is presently Franklin Drake, shall be the authorized representative of Queen Esther.

c. Trash Removal. Developers shall remove trash at the base of the downhill retaining wall on a regular basis for the duration of the Deer Crest Project.

d. Park City Municipal Transportation. The use of Keetley Road for Park City municipal transportation (other than emergency vehicles) or buses shall not be allowed.

e. Oversized Vehicle and Time of Day Limitations on Use of Park City Keetley Road Segment. All RV's, vehicles pulling trailers, tractor-trailer rigs and other vehicles with three axles and all construction traffic (other than vehicles responding to an emergency situation and other than snow removal equipment) shall be prohibited from using the Park City Keetley Road Segment for any purpose other than for the purpose of constructing that road segment, and shall be required to enter and exit the Deer Crest Project at the east control gate on the Wasatch County side of the Deer Crest Project. Certain categories of vehicles trips not prohibited by the preceding sentence on the Park City Keetley Road Segment (other than vehicles responding to an emergency situation and other than snow removal equipment) shall be regulated in one or more respects by requiring a prior appointment, by imposing a time-of-day limitation or by imposing a size of vehicle limitation as applicable under the gate control regulations attached hereto as Exhibit B (the "Regulations"). Any trips not meeting all of the stated requirements of the Regulations shall be required to enter and exit the Deer Crest Project at the east control gate on the Wasatch County side of the Deer Crest Project.

f. Gate Control Regulations, Procedures and Protocols. Developers covenant that the permanent control gates shall be configured and operated in accordance with the Regulations. Developers further agree (i) that the Park City Keetley Road Segment will be used only by the authorized users contemplated by the Original Settlement Agreement as further restricted by this Agreement and as amended by the relocation of the ski academy outside of the east control gate, and (ii) that adequate records will be kept in the operation of the gates for not less than fifteen months to allow Queen Esther periodically to audit and verify compliance with the regulations.

g. Comparable Private Access or Amenity Rights. Developers hereby grant to Queen Esther, for the benefit of its homeowners, any rights of access or other recreational amenity benefits associated with the Deer Crest Project to the extent those rights or recreational amenity benefits have been granted by Developers to the public pursuant to the Original Settlement Agreement. Further, Developers agree to grant to Queen Esther, for the benefit of its homeowners, any rights of access or other recreational amenity benefits associated with the Deer Crest Project on a basis no less favorable than the rights or benefits that may be granted by Developers in the future to any third party amenity holder. For purposes of this Agreement, a third party amenity holder shall mean any person or non-governmental entity other than an owner or lessee of property within the Deer Crest Project or other person with pre-existing permanent access rights within the portion of the Deer Crest Project where public access is controlled pursuant to the Original Settlement Agreement. The requirement of Developers to grant to Queen Esther the rights or benefits indicated in this subparagraph 1.g. shall not apply

to or include temporary promotional or other temporary rights granted on a non-recurring basis, rights of access granted in connection with the operation of facilities within the Deer Crest Project by third parties, or the creation of rights-of-way or easements for utilities or ski runs or other similar interests essential to the development or operation of facilities within the Deer Crest Project.

h. Deed Restricted Open Space. The area below the Park City Keetley Road Segment and adjacent to the Queen Esther Project boundary as shown on Exhibit D (the "Open Space Area") shall be preserved by Developers as open space by an instrument recorded in favor of Queen Esther. Contemporaneously with the staking of proposed construction work on the Park City Keetley Road Segment, Developers, at Developers' expense, shall cause a registered land surveyor to complete a survey of the Open Space Area. The instrument in favor of Queen Esther shall be recorded within 15 days after the completion of the survey. The preservation of the Open Space Area as open space shall mean the preservation of the Open Space Area generally in its natural state as a visual buffer without above ground improvements. The classification of the Open Space Area as open space shall not preclude Developers from constructing, maintaining, or reconstructing the Park City Keetley Road Segment at its designated location as shown on the Approved Drawings or limit the right of Developers to work within the Limits of Disturbance Area in connection with such construction, maintenance or reconstruction or to install or irrigate vegetation within the Open Space Area. Further, Developers agree to maintain vegetation within the Open Space Area at a level that is at least equivalent to the extent of vegetation presently existing within the Open

Space Area. Developers may, at their option, improve upon the level of vegetation within the Open Space Area with the prior approval of Queen Esther.

2. Mutual Agreements.

a. Support for Amended Development Configuration. In the event Developers elect to pursue the modifications to the Original Settlement Agreement generally described below, Queen Esther, subject to being reimbursed for its out-of-pocket costs and expenses, agrees to support the following modifications to the Original Settlement Agreement that would require the approval of Park City: (i) the removal of the physical disconnect at Slalom Village, so as to permit and encourage the use of the east control gate as the point of entry and exit for commercial, oversized or trailering vehicles and vehicles traveling outside of specified hours of operation, subject to Developer's agreement to implement gate controls no less stringent than those set forth on Exhibit B hereto in the master covenants, conditions and restrictions for the Deer Crest Project, and (ii) the allowance of not more than 155 total parking spaces at the Roosevelt Gap Lodge and the permitted use of not more than 105 of those spaces for overnight resident stay within a condominium unit at the rate of one parking space for each condominium unit, subject to Developers' agreement to construct and operate not more than 105 condominium style hotel units. Any units for which a parking space is provided at the Roosevelt Gap Lodge would not be subject to a unit equivalency adjustment notwithstanding the availability of any such adjustment under the Park City Development Code. Any additional parking spaces for the Roosevelt Gap Lodge beyond the parking spaces addressed in this paragraph shall be provided at the Snow Park Lodge hotel site or

at another site adjacent thereto. Spaces associated with a condominium unit contemplated under this paragraph shall be used only in connection with occupancy of the unit.

b. Recordable Memorandum. Within 30 days following the execution and delivery of this Agreement, Deer Crest and Queen Esther shall cause to be recorded with the Summit County Recorder's Office and Wasatch County Recorder's Office a Memorandum of Agreement substantially in the form attached as Exhibit C-1. Developers may submit to legal counsel for Queen Esther proposed Covenants, Conditions and Restrictions ("CC&Rs") covering the Deer Crest Project for review and approval that the CC&R's incorporate and making binding on the proposed homeowners association the applicable ongoing covenants and obligations of Developer under this Agreement. The costs of Queen Esther's legal counsel in connection with the review and approval contemplated by this subparagraph 2.b. shall be borne by Developers. Developers may also submit to Queen Esther evidence that the proposed homeowners association is financially capable to perform the applicable ongoing covenants and obligations of Developer under this Agreement. Subject to the prior approval by Queen Esther of the CC&Rs and the financial capability of the proposed homeowners association, and subject further to the prior recording by Deer Crest of the CC&Rs against the property within the Deer Crest Project, Queen Esther agrees to release and terminate such Memorandum of Agreement, and each of the parties hereto covenants and agrees to execute and record an instrument to evidence the release and termination of this Memorandum of Agreement in the form attached hereto as Exhibit C-2. In the event Developers provide Queen Esther with copies of documents and other information necessary to allow Queen Esther to

approve or disapprove of the CC&Rs and the financial capability of the proposed homeowners association at least 30 days in advance of the earliest date that Developers contemplate recording the CC&Rs, Queen Esther shall use reasonable efforts to approve or disapprove of the matters described in the paragraph in writing and to execute and deliver the release of the Memorandum within 30 days following submittal of the documents and information to Queen Esther. Neither the execution, delivery or recordation of a release of the Memorandum shall release or be deemed a satisfaction of the Developers' obligations in this Agreement, which obligations shall continue and survive the recordation of the release. In the event Queen Esther does not approve the CC&Rs or the financial capability of the proposed homeowners association within the stated period of time, Developers shall have the right at its discretion to record the CC&Rs with the applicable county recorder's office, and in such an event the Memorandum remains in full force and effect.

3. Fees and Expenses.

Except as provided in paragraphs 2.a., 2.b. and 7, the parties each shall bear their own respective costs and expenses, including attorneys' fees, incurred in connection with this Agreement.

4. Release by Queen Esther.

a. Except as otherwise provided in Paragraph 4.c. below, Queen Esther hereby releases and forever discharges the "Developer Releasees," consisting of each of the Developers executing this Agreement, and, where applicable, their respective parents, subsidiaries, divisions, officers, directors, owners, associates, predecessors,

successors, heirs, assigns, agents, partners, employees, insurers, representatives, lawyers, or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or in equity, and any suits, debts, liens, contracts, agreements, promises, liabilities, claims, demands, damages, losses, costs, or expenses, of any nature whatsoever, known or unknown, fixed or contingent, except such claims as may arise in the future under the Original Settlement Agreement or this Agreement (hereinafter "Claims"), that Queen Esther now has against the Developer Releasees, or any of them, by reason of any matter, cause, or thing whatsoever arising out of, based upon, or in any way relating to the use and development of the Park City Kectley Road Segment.

b. Queen Esther represents and warrants that there has been no assignment or other transfer of any interest in any Claim which it may have against any of the Developer Releasees and Queen Esther agrees to indemnify and hold the Developer Releasees, and each of them, harmless from any liabilities, claims, demands, damages, costs, expenses, and attorneys' fees incurred by the Developer Releasees, or any of them, as a result of any person asserting any such assignment or transfer.

c. The release set forth herein shall not extend to or be construed as releasing the Developer Releasees, or any of them, from their express representations set forth in this Agreement or as releasing Deer Crest, or its affiliates, partners, operators successors or assigns from their responsibilities, promises, obligations, covenants, and agreements under or arising out of this Agreement or the Original Settlement Agreement as the same may be amended.

5. Release by Developers.

a. Each of the Developers hereby releases and forever discharges the "Queen Esther Releasees," consisting of Queen Esther, and its respective officers, directors, unit owners, associates, predecessors, successors, heirs, assigns, agents, employees, insurers, representatives, lawyers, or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or in equity, and any suits, debts, liens, contracts, agreements, promises, liabilities, claims, demands, damages, losses, costs, or expenses, of any nature whatsoever, known or unknown, fixed or contingent (hereinafter "Claims"), that any of the Developers now has against the Queen Esther Releasees, or any of them, by reason of any matter, cause, or thing whatsoever arising out of, based upon, or in any way relating to the use and development of the Park City Keetley Road Segment.

b. Each of the Developers represents and warrants that there has been no assignment or other transfer of any interest in any Claim which any of them may have against the Queen Esther Releasees, or any of them, and each of the Developers agree to indemnify and hold the Queen Esther Releasees, and each of them, harmless from any liabilities, claims, demands, damages, costs, expenses, and attorneys' fees incurred by the Queen Esther Releasees, or any of them, as a result of any person asserting any such assignment or transfer.

6. Inspection.

Queen Esther acting through its duly authorized representatives shall have an easement over Keetley Road into and through the Deer Crest Project to monitor

compliance with this Agreement. For the purpose of this paragraph, "duly authorized representatives" shall mean the individual owners, from time to time, of Units 1 and 2 in the Queen Esther Project (being the two units in closest proximity to Keetley Road and therefore the units most affected by any misuse of Keetley Road), the President of Queen Esther, and no more than one additional trustee of Queen Esther as may be designated from time to time by the President of Queen Esther.

7. Enforcement of Agreement.

If any party to this Agreement brings an action or proceeding to enforce its rights hereunder, the prevailing party shall be entitled to recover its costs and expenses, including court costs and attorneys' fees, if any, incurred in connection with such action or proceeding. All parties recognize that damages to Queen Esther are not an adequate remedy for the breach of this Agreement. It is therefore agreed among all parties that injunctive relief is an appropriate remedy available to Queen Esther for the breach of any such provision.

8. Successors and Assigns.

This Agreement shall be binding on, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

9. Construction of Agreement.

This Agreement shall be construed as a whole in accordance with its fair meaning and in accordance with the laws of the State of Utah. The terms of this Agreement have been negotiated by the parties, and the language of the Agreement shall not be construed in favor of or against any particular party. The headings used herein are

for reference only and shall not affect the construction of this Agreement.

10. Entire Agreement.

This Agreement and any exhibits attached hereto represent the sole and entire agreement between the parties and supersede all prior agreements, negotiations, and discussions between the parties hereto and/or their respective counsel with respect to the subject matter covered hereby.

11. Agreement May Be Executed In Counterparts.

This Agreement may be executed in counterparts, which together shall constitute a fully executed original.

12. Severability.

In the event that any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction as to either Queen Esther or any of the Developers, the validity, legality, or enforceability of other provisions in or obligations under this Agreement shall not in any way be affected or impaired thereby.

13. Amendment to Agreement.

An amendment to this Agreement must be in a writing signed by duly authorized representatives of the parties hereto and stating the intent of the parties to amend this Agreement.

14. Notices.

Any notice or demand to be given by one party to the other shall be given in

writing by personal service, telecopy, express mail, FedEx, DHL, or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested, and addressed to such party as follows:

If to Queen Esther:

Francis C. Brown, Jr.
1155 Avenue of the Americas, 28th Floor
New York, New York 10036-2711
Telecopier: (212) 302-4988

and to:

Franklin G. Drake
Chairman and CEO
Drake Management Company
2121 S.W. Broadway, Suite 320
Portland, OR 97201-3182
Telecopier: (503) 295-6467

with a required copy to:

Thomas A. Ellison, Esq.
Stoel Rives LLP
One Utah Center
201 South Main Street, Suite 1100
Salt Lake City, UT 84111-4904
Telecopier: (801) 578-6999

If to Trans Wasatch or PCCM:

Trans Wasatch Company, L.L.C.
Park City Consolidated Mines Company
614 Main Street, Suite 202
P.O. Box 497
Park City, UT 84060
Attention: Harry Reed, President
Telecopier: (801) 649-8207

with a required copy to:

Jeffrey S. Williams, Esq.
Giauque, Crockett, Bendinger & Peterson
170 South Main Street, Suite 400
Salt Lake City, UT 84101
Telecopier: (801) 531-1486

If to Deer Crest:

Deer Crest Associates, I, L.C.
c/o LCC Properties Group, L.C.
2121 Avenue of the Stars, Suite 1700
Los Angeles, CA 90067
Attention: David M. Luber
Telecopier: (310) 552-3229

and to:

Deer Crest Associates I, L.C.
c/o LLC Properties Group, L.C.
Gateway Center
136 Heber Avenue, Suite 308
Park City, UT 84060
Telecopier: (801) 655-8120

with a required copy to:

Jonathan K. Butler, Esq.
Parsons Behle & Latimer
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, UT 84145-0898
Telecopier: (801) 536-6111

Any party may change the address at which such party desires to receive notice on written notice of such change to the other parties. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of

a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the first date written above.

**The Queen Esther Village
Project 1 Owners Association:**

By: [Signature]
Its: [Signature]

Trans Wasatch Company, L.L.C.

By: [Signature]
Its: Chief Operating Officer

Park City Consolidated Mines Company:

By: [Signature]
Its: President

Deer Crest Associates, I, L.C.
a Utah limited liability company

By: LCC Properties Group, L.C.
a Utah limited liability company,
Managing Member

By: [Signature]
David M. Luber, Managing Member

One Utah Center, Suite 800
201 South Main Street
Salt Lake City, UT 84111-2221
TEL 801.531.3000
FAX 801.531.3001
www.ballardspahr.com

Thomas G. Bennett
Tel: 801.531.3060
Fax: 801.531.3001
bennett@ballardspahr.com

August 1, 2013

Via E-Mail and First Class Mail

Mark D. Harrington
City Attorney
Park City Municipal Corporation
445 Marsac Avenue
P.O. Box 1480
Park City, UT 84060

Re: Amending 1995 Deer Crest Settlement Agreement to Eliminate Keetley Road Disconnect

Dear Mark:

This firm represents Deer Crest Janna, LLC ("DCJ"), the developer and operator of the St. Regis Deer Valley hotel ("St. Regis"), and Deer Crest Associates I, L.C. ("DCA"), the developer of the Deer Crest residential and commercial project ("Deer Crest"), in the matters that follow.

As you are aware, Park City Municipal Corporation ("City") entered into a Settlement Agreement dated December 29, 1995 (as amended, the "Settlement Agreement") with Trans-Wasatch Company, L.L.C. ("Trans-Wasatch") and Park City Consolidated Mines Company ("ParkCon"). The Settlement Agreement resolved a number of issues regarding the long-term development of Deer Crest. It is my understanding that DCA is the successor in interest to Trans-Wasatch and ParkCon under the Settlement Agreement, having acquired all of the land previously owned by Trans-Wasatch and ParkCon within Deer Crest.

As a follow up to numerous conversations over the past several years with various department heads and staff at Park City, as well as Wasatch County officials, DCJ and DCA are proposing an amendment to the Settlement Agreement to eliminate the requirement for the physical disconnection of Keetley Road as it passes through Deer Crest at the approximate location of a development parcel referred to in the Settlement Agreement as "Slalom Village." In order to avoid confusion with current maps, Keetley Road will be referred to in this letter by its current name, Deer Hollow Drive. A map of the Deer Crest road system is attached for your reference.

Section 5.2.3.4 of the Settlement Agreement requires the permanent physical disconnection of Deer Hollow Drive at the Slalom Village location, which is downhill to the east of the St. Regis. Under the Settlement Agreement, the disconnect was required to be made, initially, upon the platting of lots in the Little Baldy neighborhood or upper St. Louis neighborhood, and permanently upon

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construction of the primary structure at Slalom Village. While there have been lots platted in the Little Baldy and upper St. Louis neighborhoods, there has been no development at the Slalom Village site other than the installation of the Mountaineer Express ski lift.

Deer Hollow Drive was previously a public road, but the public dedication was vacated and the road became part of the common area of Deer Crest. At the east and west borders of Deer Crest, DCA has installed manned access gates to regulate entry into Deer Crest and to minimize through traffic between Highway 40 and Park City. The gates have been extremely effective in controlling traffic through Deer Crest, and in achieving the desired objective of the Deer Hollow Road disconnect, which was to prevent Deer Hollow Road from becoming a frequently used back door access to Deer Valley and Park City.

Because of the success of the access gates and the road design within Deer Crest, DCA and DCJ believe that disconnecting Deer Hollow Road at the Slalom Village location is now unnecessary to reduce through traffic between Highway 40 and Park City. Additionally, this road is important for emergency vehicle access as it allows for a quicker response time from Highway 40 to the St. Regis and to other properties in Deer Crest. Moreover, guests, employees and delivery vehicles for the St. Regis may only use the east (Jordanelle) gate, and Deer Hollow Road provides a direct route from the east gate to the St. Regis, which means a lower impact on Deer Crest home owners than if those vehicles had to use Deer Crest Estate Drive. For these reasons, the Deer Crest Master Owners' Association is also in favor of amending the Settlement Agreement to remove the disconnect requirement. We have also had discussions with Wasatch County officials who have expressed support for such an amendment.

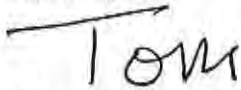
As you know, the owners within the Queen Esther Village Project have also, in the past, had an interest in road and traffic issues with respect to Deer Crest. The Queen Esther Owners Association is not a party to the Settlement Agreement, but it is a party to a separate Settlement Agreement and Release dated August 1, 1996 with DCA, Trans-Wasatch and ParkCon. Pursuant to that Settlement Agreement the Queen Esther Village Project 1 Owners Association agreed to support removal of the disconnect requirement. Section 2.a. of that Settlement Agreement provides as follows:

In the event Developers elect to pursue the modifications to the Original Settlement Agreement generally described below, Queen Esther, subject to being reimbursed for its out-of-pocket costs and expenses, agrees to support the following modifications to the Original Settlement Agreement that would require the approval of Park City: (i) the removal of the physical disconnect at Slalom Village, so as to permit and encourage the use of the east control gate as the point of entry and exit for commercial, oversized or trailering vehicles and vehicles traveling outside of specified hours of operation, subject to Developer's agreement to implement gate controls no less stringent than those set forth on Exhibit B

We would like to meet with you, representatives from the Planning Dept., Public Safety, and others as you deem appropriate to discuss the eliminating Deer Hollow Road disconnect. Enclosed with this letter is a proposed amendment to the Settlement Agreement that would achieve this objective. Please let me know if you have any questions or comments regarding the proposed amendment.

Mark D. Harrington
August 1, 2013
Page 3

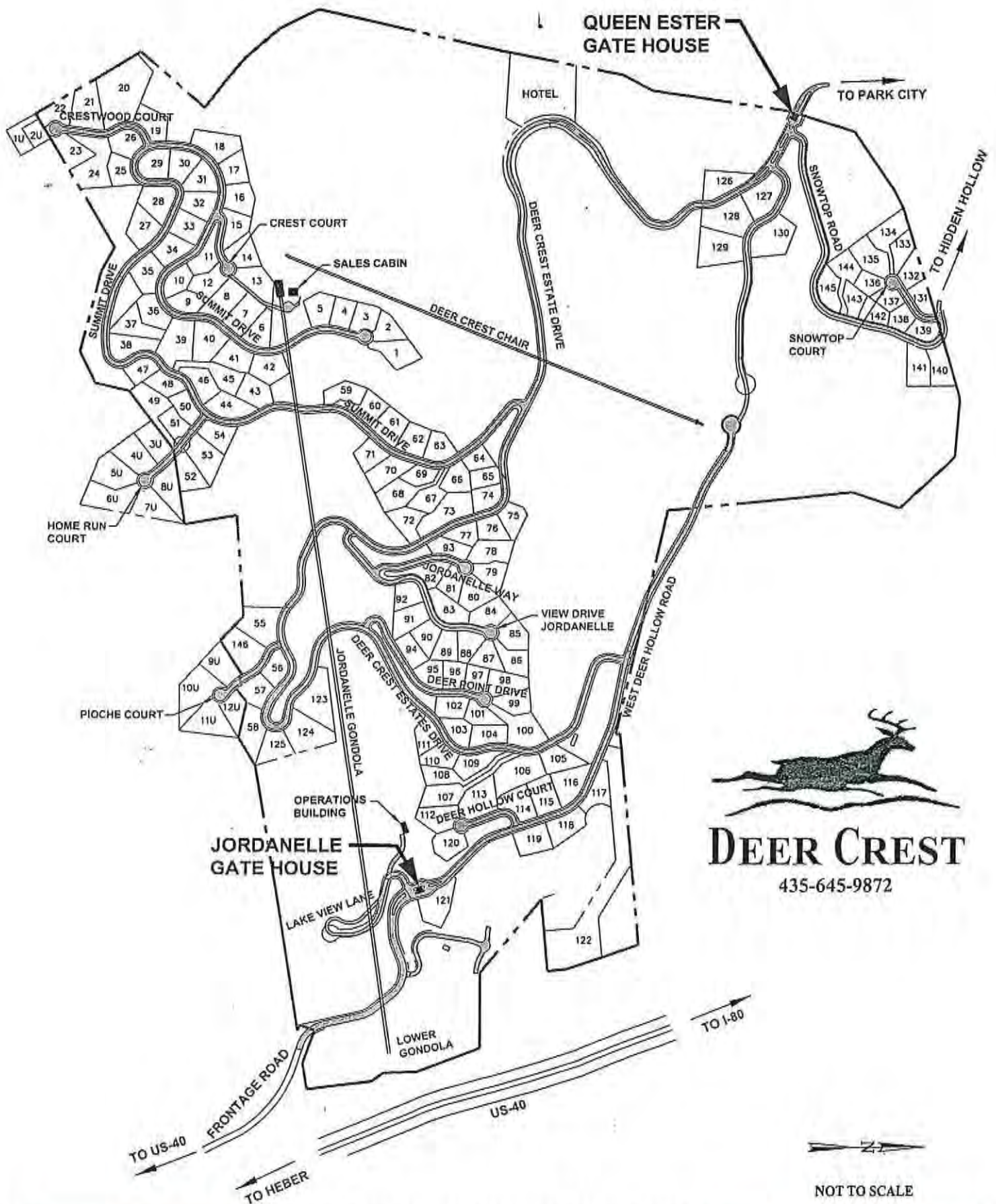
Best regards,

A handwritten signature in black ink that reads "Tom". The signature is written in a cursive, slightly stylized font.

Thomas G. Bennett

TGB:mrc

cc: Michael Zaccaro
Greg Perry
Thomas Eddington
Mike Davis
Polly Samuels McLean



THIRD AMENDMENT TO SETTLEMENT AGREEMENT

This THIRD AMENDMENT TO SETTLEMENT AGREEMENT ("Amendment") is made and executed as of _____, 2013 by and among DEER CREST ASSOCIATES I, L.C., a Utah limited liability company ("DCA") and PARK CITY MUNICIPAL CORPORATION, a political subdivision of the State of Utah ("City").

RECITALS

A. DCA, the City, Trans-Wasatch Company, L.L.C., a Utah limited liability company ("Trans-Wasatch"), and Park City Consolidated Mines Company, a Utah corporation ("ParkCon") entered into that certain Telemark Park Settlement Agreement dated December 29, 1995, as amended by that certain First Amendment to the Telemark Park Settlement Agreement dated April 8, 1997, and that certain Second Amendment to the Telemark park Settlement Agreement dated April 6, 2001 (collectively, the "Settlement Agreement"), which agreement governed certain development rights within a residential development known as Deer Crest ("Project").

B. DCA acquired all of the interest of Trans-Wasatch and ParkCon in and to the Project, including all rights and obligations of Trans-Wasatch and ParkCon under the Settlement Agreement.

C. The Settlement Agreement contemplated that Keetley Road within the Project (now known as Deer Hollow Drive) would be disconnected and that physical improvements would be placed on the historic location of such road in order to prevent through traffic use of Keetley Road.

D. The parties believe that it is in the best interest of the Project and the City that Keetley Road be preserved as a means of access through the Project, including access by emergency vehicles.

E. The parties desire to remove from the Settlement Agreement any requirement to create a physical disconnect in order to prevent through traffic over Keetley Road, either temporarily or permanently, and to remove any requirement that improvements be built in the historic location of such road.

F. DCA and the City desire to amend the Settlement Agreement as set forth herein.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, DCA and the City hereby agree as follows:

1. Defined Terms and Status of Recitals. Capitalized terms used and not otherwise defined in this Amendment shall have the meaning or meanings given to them in the Settlement Agreement. The foregoing recitals are true and correct and are incorporated herein by reference.

2. Continued Use of Keetley Road. Keetley Road, now known as Deer Hollow Drive, shall remain a main road within the Project for use by the owners, guests, and invitees within the Project; provided, however, that the access gates on the east and west sides of the Project shall continue to be used in accordance with the Settlement Agreement to prevent general public access through the Project between Highway 40 and Park City.

3. Right to Relocate Keetley Road. DCA and its designees shall have the right to relocate portions of Keetley Road, at their sole cost and expense, to accommodate the eventual development of Slalom Village and other properties within the Project.

4. Removal of Disconnect Requirement. The parties hereby agree that there shall be no requirement in the Settlement Agreement that Keetley Road be physically disconnected, either temporarily or permanently, and that there shall be no requirement that the Primary Village Structure developed as part of Slalom Village be built to physically disconnect Keetley Road. Notwithstanding any specific reference, or lack thereof, in Section 5 of this Amendment, the Settlement Agreement is hereby amended to reflect the foregoing intent and agreement of the parties. Any provision of the Settlement Agreement inconsistent with this Section 4 is hereby terminated or amended to be consistent with this Section 4.

5. Specific Amendments. Without limiting the generality of the provisions of Section 4 above, the Settlement Agreement is hereby amended as follows:

5.1. Section 4.4 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect. Notwithstanding the foregoing, the access gates on either end of Keetley Road shall continue to be operated in accordance with the Settlement Agreement.

5.2. Subsection (c) of Section 5.2.3.2 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.3. The final sentence of Section 5.2.3.3 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.4. Section 5.2.3.4 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.5. Subsection (c) of Section 5.2.3.5 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.6. Section 5.2.3.8 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.7. The second and third sentences of Section 5.2.3.10 of the Settlement Agreement are hereby deleted in their entirety and are of no further force and effect.

5.8. Section 5.3.7 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

6. Settlement Agreement Remains in Effect. This Amendment shall be considered supplemental to the Settlement Agreement. Except as expressly amended by the foregoing, the Settlement Agreement shall remain in full force and effect and shall not be canceled, suspended or otherwise abrogated by this Amendment.

7. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be an original, and all of which together shall constitute a single instrument.

[Signatures on Following Page]

IN WITNESS WHEREOF, this THIRD AMENDMENT TO SETTLEMENT AGREEMENT is entered into as of the date first set forth above.

DCA:

DEER CREST ASSOCIATES I, L.C.,
a Utah limited liability company

By: Grand Harvest Ventures, LLC, its
Managing Member

By: _____
Angela C. Sabella, Manager

CITY:

PARK CITY MUNICIPAL CORPORATION, a
political subdivision of the State of Utah

By: _____
Name: _____
Its: _____

ATTEST:

City Recorder

APPROVED AS TO FORM:

City Attorney

EXHIBIT D

Answers to Questions from Planning Department

1. Do the third-party agreements with Weilenmann, Land der Berg, United Park City Mines, and Deer Valley need to be amended to accommodate the disconnect?

No amendments to these agreements are necessary. These agreements each provide procedures to be followed in the event of a disconnect, but these procedures would be unnecessary if the disconnect requirement is removed. Pursuant to these agreements, United Park, Weillenman, and Land der Berg all have the right to use Deer Hollow Road, and such use rights are further documented in an exhibit to the Master Declaration.

2. Are guests at the St. Regis using the Deer Valley Snow Park parking lots?

It should be noted that questions 2 and 3 address issues at the St. Regis, while this request to eliminate the Disconnect requirement is coming from DCA, with support from the DCMA. Nevertheless, we can report that St. Regis operating policy, and directions to its guests, prohibit guest parking in the Deer Valley lots. Management at the St. Regis is not aware of any such use, and has not received any complaints from Deer Valley, alleging such use.

3. Can you provide operational data to confirm how the parking and circulation is working?

An updated traffic and parking study for the St. Regis was presented to the Planning Commission at its January 11, 2012 meeting. The parking study showed that less than 50% of the parking spaces beneath the St. Regis were being used on even the busiest days of the year. Both staff and the Planning Commission agreed that the parking plan and traffic patterns at the St. Regis were working smoothly, and without any complaints from the community.

4. Can you clarify who can use the west gate?

All Deer Crest lots are subject to the Master Declaration, which has a table outlining limitations on use of the west gate (see Exhibit "E" to this letter). Owners and guests have been operating consistent with this table. The proposed amendment to the Settlement Agreement would preserve the status quo, which has been successful both to serve owners within Deer Crest and prevent through traffic.

5. How would the Queen Esther development be impacted by an amendment to the Settlement Agreement?

We do not believe that the proposed amendment to the Settlement Agreement would have any impact on the Queen Esther development. In fact, Section 2.a. of the Queen Esther Settlement Agreement provides that the Queen Esther Phase 1 Owners Association will support a modification to the Settlement Agreement to eliminate the disconnect

requirement, so long as the control gates are maintained and operated consistent with the requirements of the Master.

One Utah Center, Suite 800
201 South Main Street
Salt Lake City, UT 84111-2221
TEL 801.531.3000
FAX 801.531.3001
www.ballardspahr.com

Thomas G. Bennett
Tel: 801.531.3060
bennett@ballardspahr.com

November 18, 2015

By Federal Express

Board Of Directors
The Queen Esther Village Project I Owners Association
c/o Gerald M. Chizever
3861 Breawood Ct.
Tarzana, CA 91356

Re: Deer Hollow Road (f/k/a Keetley Road) Disconnect

Ladies and Gentlemen:

This firm represents Deer Crest Associates I, L.C. ("DCA"), the developer of the Deer Crest community ("Deer Crest"), in the matters that follow.

DCA is a party to, and successor to the interests of Trans-Wasatch Company, L.L.C. and Park City Consolidated Mines Company with respect to, the Settlement Agreement and Release dated August 1, 1996 (the "Queen Esther Settlement Agreement") with The Queen Esther Village Project I Owners Association ("Association"), as well as the Settlement Agreement dated December 29, 1995 (as amended, the "Park City Settlement Agreement") with Park City Municipal Corporation ("City").

The Park City Settlement Agreement included a requirement that Deer Hollow Road (formerly known as Keetley Road), which is the most direct east/west route through Deer Crest, have a physical barrier (the "Keetley Road Disconnect") constructed at a location approximately a quarter mile east of the St. Regis Deer Valley hotel, for the purpose of discouraging east/west travel through Deer Crest by non-Deer Crest owners and guests. As you are aware, subsequent to the Queen Esther Settlement Agreement entry gates were installed at the east and west entries to Deer Crest in lieu of constructing the Keetley Road Disconnect. In addition, provisions were included in the CC&Rs for Deer Crest, restricting access to Deer Crest and the use of each entry gate in a manner that was at least as restrictive as the requirements of the Queen Esther Settlement Agreement.

The Deer Crest entry gate system has operated effectively for nearly 20 years to curtail public access between Park City and Wasatch County over Deer Hollow Road. Further, Wasatch County and Park City emergency service providers (fire, police and paramedics) believe that implementing the Keetley Road Disconnect would have an adverse effect on public safety, since it would delay access to many of the homes in Deer Crest, as well as to the St. Regis Deer Valley hotel. Both DCA and the Deer Crest Master Owners Association ("Master Association") believe that the entry gates are a

DMWEST #12538515 v2

much better solution to limiting access through Deer Crest than constructing the Keetley Road Disconnect. Accordingly, DCA, with the support of the Master Association, is going to make a formal request that the City amend the Park City Settlement Agreement to eliminate the Keetley Road Disconnect requirement. The existing entry gate system will then remain in place and become the permanent solution for regulating access through Deer Crest.

The Queen Esther Settlement Agreement contemplated that this would likely occur, and Section 2.a, of that Agreement provides that the Association will support such a modification to the Park City Settlement Agreement. For your convenience, a copy of the Queen Esther Settlement Agreement is attached. Also attached is a copy of a letter from Wasatch County, expressing support for eliminating the Keetley Road Disconnect requirement.

We anticipate that the process for eliminating the requirement to implement the Keetley Road Disconnect will move forward over the next few months. This will be a public process involving one or more public hearings, with respect to which the Association should receive advance notice from the City. In the meantime, I would be glad to answer any questions that the Association or its members may have regarding this issue. I can be reached by email at bennett@ballardspahr.com, or by phone at (801) 531-3060.

Best regards,

Thomas G. Bennett

TGB:mc

Cc: P.M.A., Registered Agent

Enclosures

COUNTY MANAGER
Michael K. Davis



COUNTY COUNCIL
Kipp Bangerter
Kendall Crittenden
Danny Goode
Steve Farrell
Michael I. Kohler
Greg McPhie
Michael Petersen

November 3, 2015

City Council
Park City Municipal Corporation
Post Office Box 1480
Park City, UT 84060

Andy
Cindy
Dick
Liza
Tim
Jack

Re: Deer Hollow Road (f/k/a Keetley Road) Disconnect

Dear Council Members:

This letter is written in support of the application of Deer Crest Associates I, L.C. ("DCA"), the developer of the Deer Crest community ("Deer Crest"), with respect to removal of the requirement to disconnect the Deer Hollow Road thoroughfare through Deer Crest.

We understand DCA is the successor in interest to Trans-Wasatch Company, L.L.C. and Park City Consolidated Mines Company with respect to the Settlement Agreement dated December 29, 1995 with Park City Municipal Corporation ("Settlement Agreement"). The Settlement Agreement required the physical disconnection of Deer Hollow Road as it passes through Deer Crest at the approximate location of a development parcel referred to in the Settlement Agreement as "Slalom Village" (approximately one-quarter mile east of the St. Regis Deer Valley). In the intervening years guard gates were constructed at the east and west entrances to Deer Crest, and created effective barriers to members of the public using Deer Hollow Road for direct access between Wasatch County and Park City. Wasatch County is in favor of the Settlement Agreement being amended to remove the disconnect requirement, as implementation of the disconnect requirement would impair the ability of Wasatch County ("County") to respond to emergencies in Deer Crest and the existing gates accomplish the intended purpose of the disconnect requirement.

As you know, the County provides fire and other emergency services to Deer Crest pursuant to an Interlocal Agreement with Park City. Currently Deer Hollow Road provides direct access from Highway 40 to nearly all of the lots and developments within Deer Crest, including the St. Regis Deer Valley hotel. Without the ability to use Deer Hollow Road to reach the western areas of Deer Crest, emergency response times would be significantly increased.

Based on these and other reasons, Wasatch County would encourage Park City to adopt an amendment to the Settlement Agreement, removing the requirement for a permanent physical disconnect of Deer Hollow Road. If you need any additional information from Wasatch County as you consider this issue, please contact me.

Sincerely,

Mike Davis
County Manager

THIRD AMENDMENT TO SETTLEMENT AGREEMENT

This THIRD AMENDMENT TO SETTLEMENT AGREEMENT ("Amendment") is made and executed as of _____, 2016 by and among DEER CREST ASSOCIATES I, L.C., a Utah limited liability company ("DCA") and PARK CITY MUNICIPAL CORPORATION, a political subdivision of the State of Utah ("City").

RECITALS

A. DCA, the City, Trans-Wasatch Company, L.L.C., a Utah limited liability company ("Trans-Wasatch"), and Park City Consolidated Mines Company, a Utah corporation ("ParkCon") entered into that certain Telemark Park Settlement Agreement dated December 29, 1995, as amended by that certain First Amendment to the Telemark Park Settlement Agreement dated April 8, 1997, and that certain Second Amendment to the Telemark Park Settlement Agreement dated April 6, 2001 (collectively, the "Settlement Agreement"), which agreement governed certain development rights within a residential development known as Deer Crest ("Project").

B. DCA acquired all of the interest of Trans-Wasatch and ParkCon in and to the Project, including all rights and obligations of Trans-Wasatch and ParkCon under the Settlement Agreement.

C. The Settlement Agreement contemplated that Keetley Road within the Project (now known as Deer Hollow Drive) would be disconnected and that physical improvements would be placed on the historic location of such road in order to prevent through traffic use of Keetley Road.

D. The parties believe that it is in the best interest of the Project and the City that Keetley Road be preserved as a means of access through the Project, including access by emergency vehicles.

E. The parties desire to remove from the Settlement Agreement any requirement to create a physical disconnect in order to prevent through traffic over Keetley Road, either temporarily or permanently, and to remove any requirement that improvements be built in the historic location of such road.

F. DCA and the City desire to amend the Settlement Agreement as set forth herein.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, DCA and the City hereby agree as follows:

1. Defined Terms and Status of Recitals. Capitalized terms used and not otherwise defined in this Amendment shall have the meaning or meanings given to them in the Settlement Agreement. The foregoing recitals are true and correct and are incorporated herein by reference.

2. Continued Use of Keetley Road. Keetley Road, now known as Deer Hollow Drive, shall remain a main road within the Project for use by the owners, guests, and invitees within the Project; provided, however, that the access gates on the east and west sides of the Project shall continue to be used in accordance with the Settlement Agreement to prevent general public access through the Project between Highway 40 and Park City.

3. Right to Relocate Keetley Road. DCA, its successors and assigns, shall have the right to relocate portions of Keetley Road, at their sole cost and expense, to accommodate the eventual development of Slalom Village and other properties within the Project.

4. Removal of Disconnect Requirement. The parties hereby agree that there shall be no requirement that Keetley Road be physically disconnected, either temporarily or permanently, and that there shall be no requirement that the Primary Village Structure developed as part of Slalom Village be built to physically disconnect Keetley Road. Notwithstanding any specific reference, or lack thereof, in Section 5 of this Amendment, the Settlement Agreement is hereby amended to reflect the foregoing intent and agreement of the parties. Any provision of the Settlement Agreement inconsistent with this Section 4 is hereby terminated or amended to be consistent with this Section 4.

5. Specific Amendments. Without limiting the generality of the provisions of Section 4 above, the Settlement Agreement is hereby amended as follows:

5.1. Section 4.4 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect. Notwithstanding the foregoing, the access gates on either end of Keetley Road shall continue to be operated in accordance with the Settlement Agreement.

5.2. Subsection (c) of Section 5.2.3.2 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.3. The final sentence of Section 5.2.3.3 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.4. Section 5.2.3.4 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.5. Subsection (c) of Section 5.2.3.5 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.6. Section 5.2.3.8 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

5.7. The second and third sentences of Section 5.2.3.10 of the Settlement Agreement are hereby deleted in their entirety and are of no further force and effect.

5.8. Section 5.3.7 of the Settlement Agreement is hereby deleted in its entirety and is of no further force and effect.

6. Settlement Agreement Remains in Effect. This Amendment shall be considered supplemental to the Settlement Agreement. Except as expressly amended by the foregoing, the Settlement Agreement shall remain in full force and effect and shall not be canceled, suspended or otherwise abrogated by this Amendment.

7. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be an original, and all of which together shall constitute a single instrument.

[Signatures on Following Page]

IN WITNESS WHEREOF, this THIRD AMENDMENT TO SETTLEMENT AGREEMENT is entered into as of the date first set forth above.

DCA:

DEER CREST ASSOCIATES I, L.C.,
a Utah limited liability company

By: Grand Harvest Ventures, LLC, its
Managing Member

By: _____
Angela C. Sabella, Manager

CITY:

PARK CITY MUNICIPAL CORPORATION, a
political subdivision of the State of Utah

By: _____
Name: _____
Its: _____

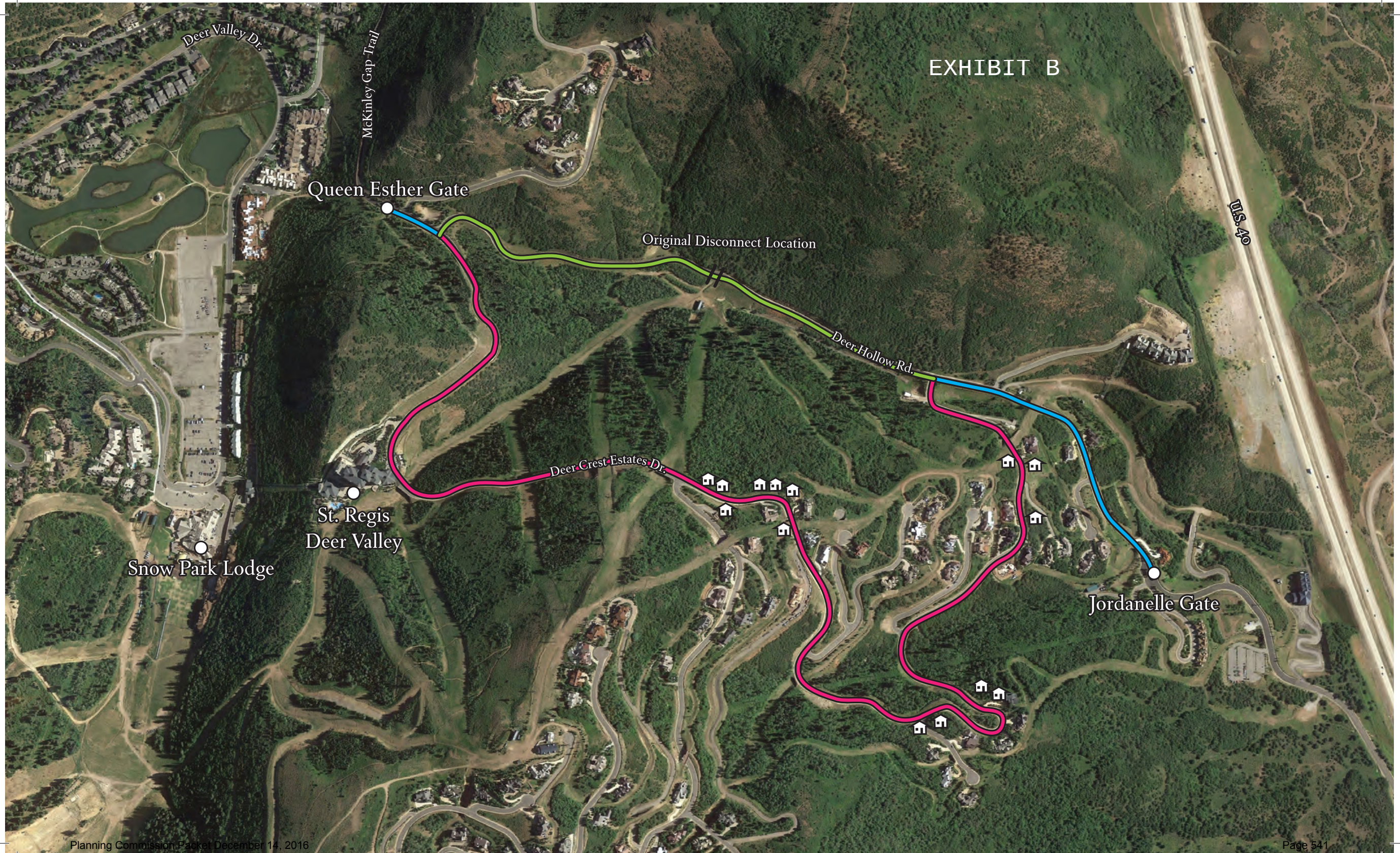
ATTEST:

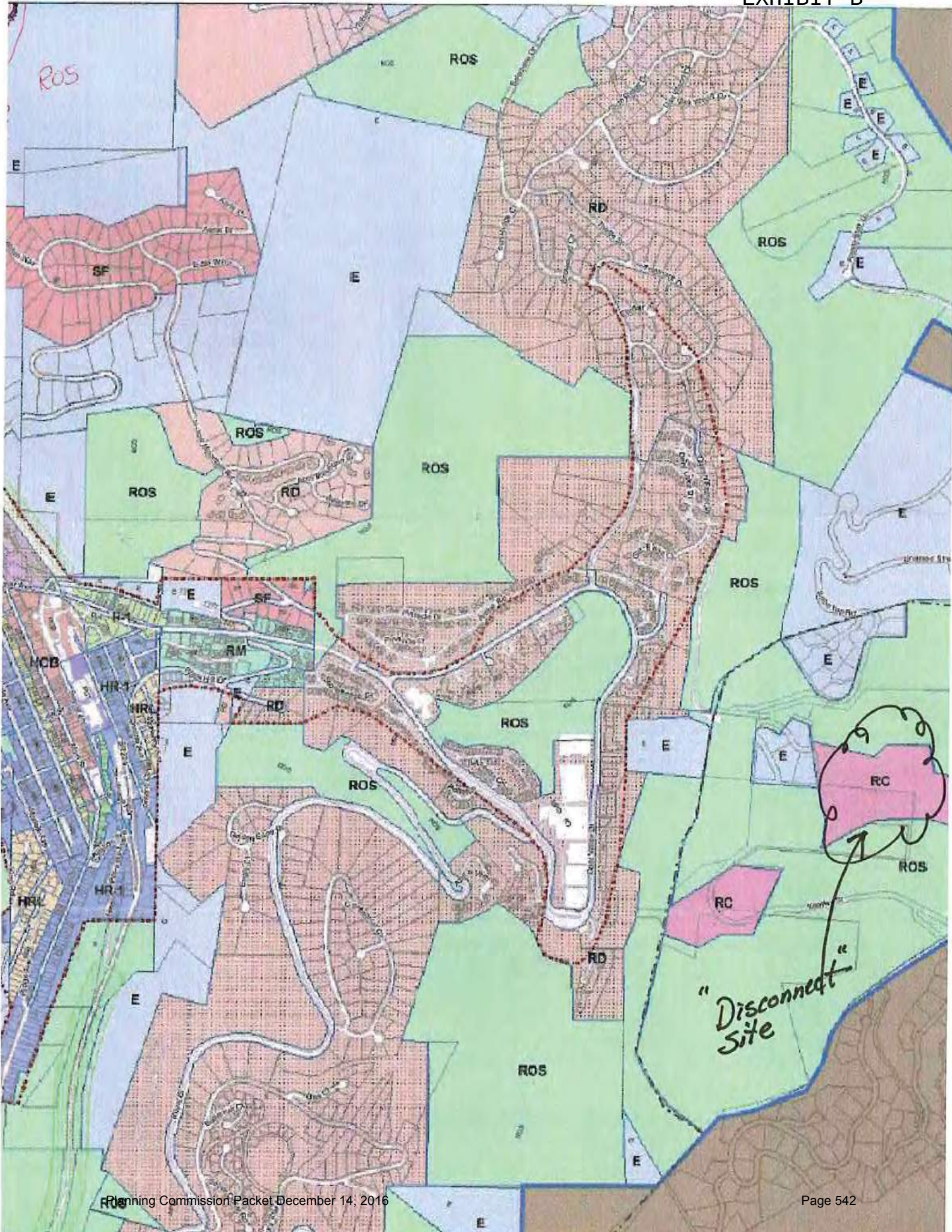
City Recorder

APPROVED AS TO FORM:

City Attorney

EXHIBIT B





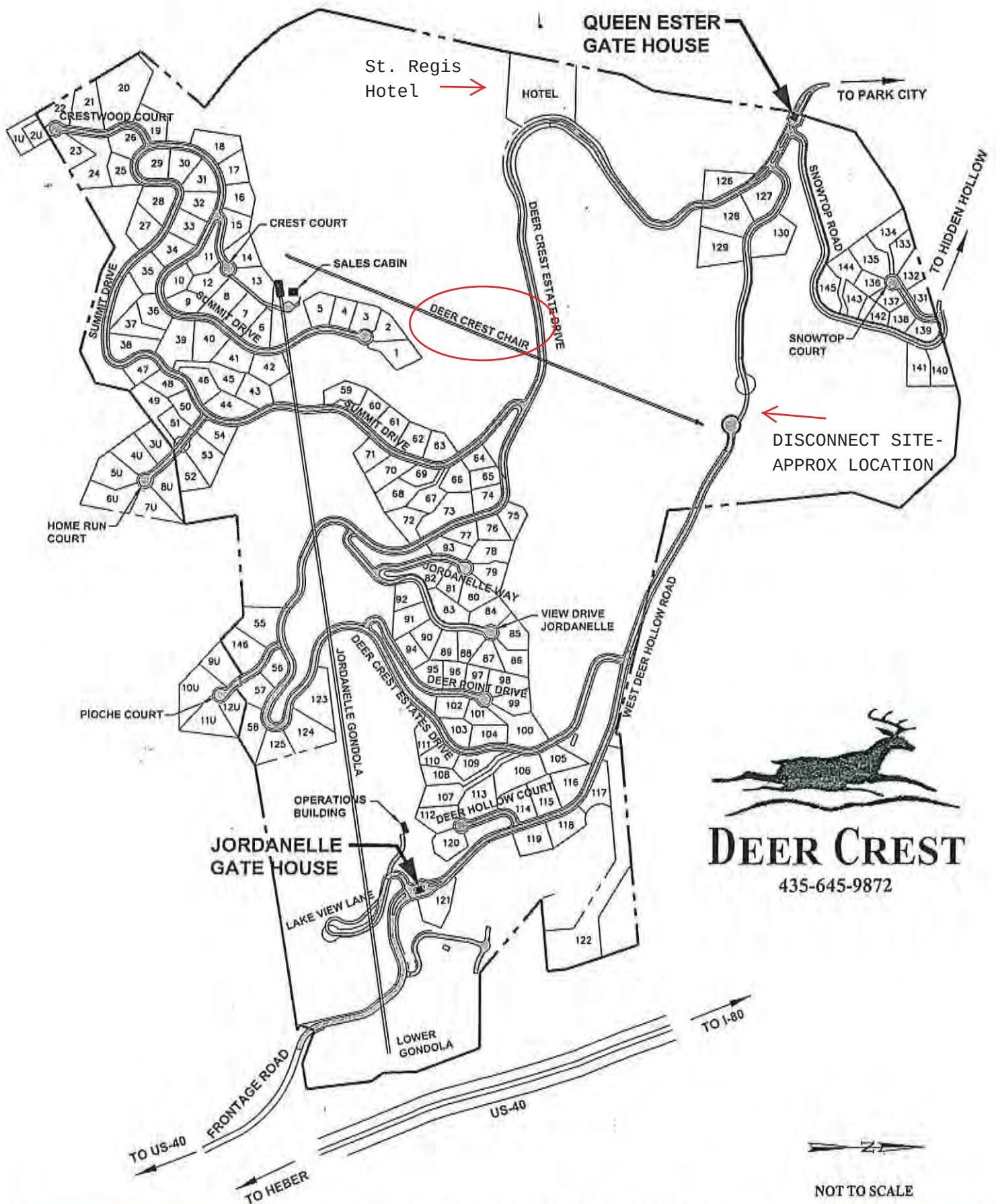


EXHIBIT C

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N





CITY COUNCIL REPORT

DATE: April 29, 1999
DEPARTMENT: Planning
AUTHOR: Nora Shepard, Special Projects Planner
TITLE: Deer Crest Settlement Agreement Amendment
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Consider and act on the proposed amendment to the Deer Crest Settlement Agreement to allow the Planning Commission to consider allowing a transfer of development rights to increase in Residential Unit Equivalents for the Roosevelt Gap/Snow Park Hotel project (aka Deer Crest Grande Lodge).

DESCRIPTION:

A. Topic. Deer Crest Settlement Agreement.

B. Background.

In 1991, Wasatch County granted a density determination for Telemark Park, a residential resort development on 524 acres. The approval consisted of chairlift and ski run development along with residential development in 6 "neighborhoods." The developer also controls an additional 84 acres within unincorporated Summit County and 70 within the Park City limits. The development plan for the entire property consists of not more than 545 units (150 single family and 395 multifamily) with 42,000 gross square feet of commercial space and a 20,000 gross square foot Ski Academy.

After several years of litigation, the developer (Park City Consolidated Mines Company and Trans-Wasatch Company) and Park City entered into a settlement agreement in order to settle the outstanding disputes and to redefine certain rights and obligations. A copy of the Settlement Agreement is available at your request.

The Settlement Agreement addresses density, limited access on Keetley Road, and options for partial annexation to Park City.

On December 17, 1998, the City Council approved annexation of three portions of the project, now known as Deer Crest, as was contemplated in the 1995 Settlement Agreement. At that time, the City Council approved an amendment to the Settlement Agreement which would allow Planning Commission to consider an increase in parking spaces at Roosevelt Gap.

Deer Crest, LLC has been working on plans for the Deer Crest Grand Lodge, which consists of the Roosevelt Gap site and the Snow Park site. At this time, the developer would like the City Council to further amend the 1995 Settlement Agreement to allow the Planning Commission to consider additional density for the Grand Lodge.

According to the Settlement Agreement, the Roosevelt Gap parcel is entitled to 105 residential unit equivalents and 5% support commercial, if it is developed jointly with the Snow Park Hotel and connected by a Funicular. If there is no such connection, the Roosevelt Gap site is entitled to 5 single family parcels. There is no maximum building height specified in the agreement, but there is a requirement that the project not be visible from the Stew Pot Restaurant deck (with the exception of the funicular).

The Snow Park Hotel Site is entitled 25 residential unit equivalents and 5% support commercial, with an option to increase to 35 residential unit equivalents if the density is transferred from the Deer Hollow site and Park City approves the revised plans. The maximum allowed building height is 45 feet.

C. Analysis.

The Grand Lodge is proposed to be a five star hotel and would offer a product which Park City does not currently have. The developer is currently working with Ritz Carlton. Because of the unique nature of this project, the proposed condominium units are large and there is a great deal of space required for "back of house" and support uses. The developer asserts that the larger units and square footage will not result in an increased impact, but will result in a higher end product.

At this time, the developer is requesting that the City Council amend the 1995 Settlement Agreement to allow the Planning Commission to evaluate the project and give the Planning Commission the option to recommend that additional residential unit equivalents be transferred to the Roosevelt Gap site.

The applicant is still working on the proposal. At this time, it appears that the Roosevelt Gap portion of the project exceeds the permitted 105 unit equivalents by about 12 unit equivalents. The Snow Park portion, as proposed contains 35 unit equivalents. The applicant is willing to explore the transfer of units from

elsewhere in the project, or from Deer Valley. The City Council would have to grant final approval for the project.

In the past, the applicant indicated that numerous amendments to the Settlement Agreement may be requested. The project has been revised so that only an increase in residential unit equivalents is necessary. The City Council previously authorized the Planning Commission to consider additional parking at Roosevelt Gap.

The applicant intends to request a height variation as provided for in the Land Management Code. That does not require an amendment to the Settlement Agreement. The variation will require Planning Commission and City Council action.

D. Department Review.

The staff has only preliminarily reviewed the plans in order to give the City Council an idea of the nature of the request being made by the applicant.

ALTERNATIVES

A. Amend the Settlement Agreement to allow the Planning Commission to consider additional residential unit equivalents for the Grand Lodge. This would allow the developer to go through the Planning Commission process with the plans as they are currently proposed. The developer is prepared to address any additional impacts resulting from the additional unit equivalents. The Planning Commission would make a recommendation to the City Council for any transfer.

B. Deny the request of Deer Crest to amend the Settlement Agreement. This would result in the developer having to redesign the plans to meet the unit equivalents as currently outlined in the Settlement Agreement prior to proceeding with the Planning Commission process.

C. Request additional information of the developer and/or staff prior to making a determination on the amendment to the Settlement Agreement.



CITY COUNCIL REPORT

DATE: December 14, 1998
DEPARTMENT: Planning
AUTHOR: Nora Shepard, Special Projects Planner
TITLE: Deer Crest Annexation
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Approve the Annexation Ordinance, the Zoning Ordinance, the revision to the 1995 Settlement Agreement and the Deer Crest Interlocal Agreement.

DESCRIPTION:

A. Topic.

Deer Crest LLC has requested annexation of a portion of the Deer Crest Project. In order to approve the annexation, the City Council must consider and approve:

1. The Annexation Ordinance,
2. A Zoning Ordinance amending the Park City Zone Map to include and zone the property,
3. An amendment to the 1995 Settlement Agreement, and
4. The Deer Crest Interlocal Agreement between Wasatch County and Park City.

B. Background.

Deer Crest LLC has filed an annexation petition consistent with the 1995 Settlement Agreement between Telemark Park and Park City. When the petition was first filed, it included 11 amendments to the 1995 Settlement Agreement that the developer felt were

necessary. The Planning Commission reviewed the annexation request and several of the planning-related amendments to the Settlement Agreement. The Planning Commission forwards a positive recommendation on the annexation with several conditions relating to the amendments of the Settlement Agreement which are no longer tied to the annexation. Those recommendations are still a matter of record and will be considered if Deer Crest comes back before the Planning Commission and City Council with amendments which are project related.

The current request for annexation is to annex the Deer Hollow, Roosevelt Gap and Snowtop portions of the Deer Crest project, as they are described in the 1995 Settlement Agreement with one modification. For more specific information, please refer to the Staff Report for the Public Hearing.

Concurrent with the annexation, the applicant is requesting one amendment to the Settlement Agreement. The Settlement Agreement allows for the development of hotel units (105 units of 2,000 sq. ft. in size) at the Roosevelt Gap site, if it is developed in conjunction with the Snow Park Hotel site and is connected to the Snow Park Hotel by a funicular. Access to the Roosevelt Gap portion of the hotel was to occur primarily from the Snow Park site via the funicular. Only 50 day parking spaces were allowed at the Roosevelt Gap site in an effort to minimize vehicle trips on Keetley Road.

The applicant now requests an additional 105 overnight spaces at Roosevelt Gap. The applicant has agreed to modify other areas of the project and to propose a parking management plan to ensure that this increase in parking will not result in an increase in traffic on Keetley Road. Any Council action to amend the Settlement Agreement to allow the 105 additional spaces could be based upon a condition that the project be otherwise modified to result in a net decrease in the vehicle trips on Keetley Road.

As property is annexed, it must be zoned. Concurrent with annexation, the Council will be asked to amend the official Zoning Map for Park City. The zoning designated for the property will refer to the densities set forth in the Settlement Agreement. The development areas in Roosevelt Gap and Deer Hollow will be zoned Recreation Commercial - Master Planned Development (RC-MPD). The areas outside the development areas will be zoned Recreation Open Space - Master Planned Development (ROS-MPD). The building envelop areas in Snowtop will be zoned Estate - Master Planned Development (E-MPD) and the areas outside the building areas will be zoned ROS-MPD.

C. Analysis

The proposed annexation was anticipated in the 1995 Settlement Agreement. The three development areas being considered for annexation are the areas closest to Park City. They are separated from the rest of the development by a large expanse of open space, ski runs and a ridgeline. The Deer Hollow and Roosevelt Gap developments are anticipated to provide skier bed base. The annexation will allow for the development of the 105 units

at Roosevelt Gap, if it is connected to the Snow Park Hotel site via a funicular. Without annexation and without the funicular, the entitlement for Roosevelt Gap is 5 single family parcels. Restricted access to Park City via the Keetley road will be available to these three developments whether or not annexation occurs. If annexed, both the Roosevelt Gap/Snow Park Hotel and the Deer Hollow development will be required to go through site specific conditional use review with the Planning Commission.

The Snowtop Subdivision is immediately adjacent to Park City and residents will have access to Park City via the Keetley Road. The final plat for the Snowtop Subdivision has been approved by Wasatch County and the lots could be sold and built upon regardless annexation. By annexing the properties prior to construction, the City will receive a variety of revenues according to the provisions of the Deer Crest Interlocal Agreement.

A fiscal impact analysis has been submitted by the applicant which indicates strongly positive fiscal impact on Park City if the property is annexed.

The requested amendment to the Settlement Agreement to allow 105 overnight spaces at Roosevelt Gap would be allowed only if it is considered appropriate by the Planning Commission in conjunction with a luxury hotel development and if it can be shown that it would not result in an increase in traffic on Keetley Road. The amendment would not be specifically tied to any single operator or project, but would be evaluated during the Conditional Use Review.

D. Department Review.

The interlocal agreement was the subject of extensive review by various City departments and is described under separate cover. The annexation documents have been reviewed by the Legal and Community Development Departments for compliance with state law, city regulations and the 1995 Settlement Agreement.

ALTERNATIVES

- A. Approve the Annexation with the requested revision to the Settlement Agreement.
- B. Approve the Annexation without the requested revision to the Settlement Agreement.
- C. Deny the Annexation Request.
- D. Continue the item and request further information.

SIGNIFICANT IMPACTS:

Annexation and execution of the Deer Crest Interlocal Agreement would have a positive fiscal impact on Park City and will establish a mechanism of intergovernmental

coordination with Wasatch County. It will also facilitate the development of a major luxury hotel at the Snow Park Hotel/Roosevelt Gap site.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

Without annexation, Roosevelt Gap would be allowed to construct 5 single family homes in Wasatch County. The Deer Hollow and Snowtop developments would proceed as approved by Wasatch County.

RECOMMENDATION:

The staff recommends that the City Council proceed with the Annexation, Zoning, Amendment to the Settlement Agreement and Deer Crest Interlocal Agreement.



CITY COUNCIL REPORT

DATE: November 23, 1998
DEPARTMENT: Planning
AUTHOR: Nora L. Shepard, Special Projects Planner
TITLE: Deer Crest Annexation
TYPE OF ITEM: Annexation

SUMMARY RECOMMENDATIONS: Public Hearing on proposed annexation and amendment to the Park City Zoning Map.

DESCRIPTION:

A. Topic:

PROJECT STATISTICS:

Applicant:	Deer Crest Associates I, L.C.
Location:	East of Deer Valley
Zoning:	Wasatch County RF-1 with an approved Density Determination
Adjacent Land Uses:	Ski Area, Vacant Land
Date of Application:	July 10, 1998
Project Planner:	Nora Shepard

B. Background:

In 1991, Wasatch County granted a density determination for Telemark Park, a residential resort development on 524 acres. The approval consisted of chairlift and ski run development along with residential development in 6 "neighborhoods." The developer also controls an additional 84 acres within unincorporated Summit County and 70 within the Park City limits. The development plan for the entire property consists of not more than 545 units (150 single family and 395 multifamily) with 42,000 gross square feet of commercial space and a 20,000 gross square foot Ski Academy.

After several years of litigation, the developer (Park City Consolidated Mines Company and Trans-Wasatch Company) and Park City entered into a settlement agreement in order to settle the

outstanding disputes and redefine certain rights and obligations. A copy of the Settlement Agreement is available at your request. The Settlement Agreement addresses density, limited access on Keetley Road, and options for partial annexation to Park City. The applicant has submitted a petition for annexation consistent with the Settlement Agreement.

C. Project Description

Annexation Request

Deer Crest proposes to annex the following parcels of land which are contiguous to each other and which are contiguous to the existing easterly boundary of Park City:

*Snowtop - a 39.51 acre parcel that has received final approval by Wasatch County for the subdivision of 15 residential building lots. The Snowtop parcel consists of 67% open space.

*Roosevelt Gap - a 60.87 acre parcel that has received density determination approval by Wasatch County for 105 condominium lodge units of 2,000 square feet, plus 5% support commercial,¹ and final master parcel plat approval (authorizing the recordation of a plat for ownership purposes but not for purposes of further development). The Roosevelt Gap Master Parcel consists of 84% open space.

*Deer Hollow Village - a 97.71 acre parcel that has received final approval by Wasatch County for the subdivision of 5 residential lots on 8.51 acres, and, on the balance of the acreage, density determination approval by Wasatch County for 83 residential units of 2,400 square feet, plus 5% support commercial, and final master parcel plat approval (authorizing the recordation of a plat for ownership purposes but not for purposes of further development). The Deer Hollow Village Master Parcel consists of 77% open space.

Amendment to the Settlement Agreement

Concurrent with the Annexation, the applicant is requesting one amendment to the Settlement Agreement. The Settlement Agreement allows for the development of hotel units (105 units of 2,000 sq. ft. in size) at the Roosevelt Gap site, if it is developed in conjunction with the Snow Park Hotel site and is connected to the Snow Park Hotel by a funicular. Access to the Roosevelt Gap portion of the hotel was to occur primarily from the Snow Park site via the funicular. Only 50 day parking spaces were allowed at the Roosevelt Gap site in an effort to decrease vehicle trips on Keetley Road.

The applicant now requests an additional 105 overnight spaces at Roosevelt Gap. The applicant has agreed to make modifications to other areas of the project and to propose a parking

¹Applicable square footages are calculated as provided in the applicable Wasatch County Density Determination and exclude certain spaces such as circulation space, lobbies, mechanical spaces and other spaces necessary for building function.

management plan to ensure this increase in parking will not result in an increase in traffic on Keetley Road. Any Council action to amend the Settlement Agreement to allow the 105 additional spaces could be based upon a condition that the project be otherwise modified to result in a net decrease in the vehicle trips on Keetley Road.

Interlocal Agreement

The Deer Crest Project was approved in Wasatch County and the majority of it is being developed under Wasatch County's jurisdiction. Park City and Wasatch County have been negotiating an interlocal agreement to cover those areas which would be annexed into Park City. That interlocal agreement would have to be acted on by the City and the County prior to, or concurrent with, annexation.

Zoning

As property is annexed, it must be zoned. Concurrent with annexation, the Council will be asked to amend the official Zoning Map for Park City. The zoning designated to the property will refer to the densities set forth in the Settlement Agreement. The development areas in Roosevelt Gap and Deer Hollow will be zone Recreation Commercial - Master Planned Development (RC-MPD). The areas outside the development areas will be zoned Recreation Open Space - Master Planned Development (ROS-MPD). The building envelop areas in Snowtop will be zoned Estate - Master Planned Development (E-MPD) and the areas outside the building areas will be zoned ROS-MPD.

D. Analysis

Planning Commission Action

The Planning Commission was asked to review the proposed annexation and those amendments to the Settlement Agreement which would affect the annexation areas. The Planning Commission therefore considered square footage modifications (which are not now a part of the annexation request) and the increase in parking at the Roosevelt Gap Lodge. The Planning Commission forwarded a positive recommendation to the City Council as follows:

1. The Planning Commission received and reviewed information on the proposed Annexation of a portion of the Deer Crest Project.
2. A public hearing was held before the Planning Commission on the proposed Annexation on August 26, 1998.
3. The Planning Commission has reviewed and discussed traffic information submitted by the developer and by the City's consultant.

Based upon the above findings, the Planning Commission recommends to the City Council that the Roosevelt Gap, Deer Hollow and Snowtop areas of Deer Crest should be annexed to the City prior to development and consistent with the Wasatch County approvals.

The Planning Commission further recommends to the City Council that the proposed revisions to the Settlement Agreement relative to increased square footage, increased commercial square footage and increased parking at Roosevelt Gap are appropriate and that traffic impacts have been

adequately addressed by () or modifications to the project proposed by the developer.

The recommendation is based upon the following assumptions and conditions:

1. This approval does not constitute final plat approval for the Snow Top Subdivision or MPD approval for Roosevelt Gap or Deer Hollow. If the property is annexed to the City, the normal review procedures shall commence.
2. If the annexation is consummated and an MPD is entered into, the applicant will submit a detailed and enforceable plan for the management of traffic on Keetley Road with the objective of reducing, to the greatest degree possible, non-guest traffic on Keetley Road and emphasizing the use of the funicular. This includes management of the gate and through access, identification of how the gate will be managed and who will go through it, restrictions on employee parking at the Roosevelt Gap site, and other mechanisms designed to reduce non-guest traffic on Keetley Road.
3. A reversion clause shall be inserted in the amended settlement agreement that, if the project is not constructed as proposed in Roosevelt Gap, funicular, and Snow Park in some time certain, the revisions to the settlement agreement being recommended tonight shall revert back to the original settlement agreement.
4. There shall be no variation in height within the annexation area as a direct result of the increases in square footage which the Planning Commission is recommending to City Council.
5. Employee housing standards shall be revised to meet Park City Employee Housing Standards, and additional employee housing shall be reviewed before the additional square footage being proposed at the Roosevelt Gap site.

Process After Annexation

If this annexation is approved, Roosevelt Gap and Deer Hollow will be required to go through the normal Planning Commission review process.

E. NOTIFICATION REQUIREMENTS

The Annexation Petition was accepted by the City Council, was Certified by the City recorder after consultation with both Wasatch and Summit Counties. Notification of Certification was conducted according to the state statute.

The City Council is required to hold a Public Hearing prior to annexation. This Public Hearing was noticed according to state law. The City Council could take action on the Annexation Petition, the Interlocal Agreement and the Amendment to the Settlement Agreement on December 10 or 17, 1998.

Kirsten Whetstone

From: Jill Kaufman <jillbradandkids1@bellsouth.net>
Sent: Friday, December 02, 2016 2:20 PM
To: Kirsten Whetstone
Subject: Application #PL-16-03209; Project - Slalom Village parcel of the DeerCrest Annexation

Dear Kirsten - my husband, Bradford David Kaufman, and myself, Jill Ellen Kaufman, are the property owners of 3438 W. Snow Top Court, Park City, Utah. 84060. I am writing you to express our support of the proposed amendment to the Deer Crest Settlement Agreement and MPD dated December 29, 1995, to eliminate a requirement for a physical disconnect of the Deer Hollow Road as it passes through Deer Crest development at the approximate location of the Slalom Village Development Parcel. It is our desire that the permanent east and west gates remain and continue to function as they currently do to prevent unauthorized traffic on Keetley Road, per the Agreement.

We cannot attend the public hearing on December 14, 2016 and would appreciate your forwarding this email to the Planning Commission.

Thank you.

Sincerely, Jill Ellen Kaufman

Sent from my iPad

Kirsten Whetstone

From: Melinda Schlueter <mschlueter@provincegroup.com>
Sent: Wednesday, November 30, 2016 11:49 AM
To: Kirsten Whetstone
Subject: Application #PL-16-03209
Attachments: 20161130104625183.pdf

Ms. Whetstone,

Pursuant to the request of Mark Kerslake attached is a letter regarding Application PL-16-03209. Would you please forward it on to the Planning Commission.

Thank you.

Melinda Schlueter
Province Group/Newport Equities LLC
26 Corporate Plaza, Suite 260
Newport Beach, California 92660
Phone (949) 553-4800 ext. 8210
Fax (949) 706-7979
mschlueter@provincegroup.com



Mark J. Kerslake
3127 West Deer Crest Estates Drive
Heber, Utah 84032

November 30, 2016

Planning Commission
Park City

RE: Application PL-16-03209

Dear Commissioners:

I am a homeowner in the Deer Crest community (Lot 125) and have been for a number of years. I am writing to express my support that you vote to eliminate the disconnect requirement of Deer Hollow Road. Deer Hollow Road functions quite well as it is and the disconnect would needlessly force more traffic through the residential areas of Deer Crest. Disconnecting Deer Hollow Road would also make it more difficult and time-consuming for emergency and snow removal vehicles to access our neighborhoods and the St. Regis Hotel. I'm not sure of the genesis of the disconnect requirement, but it seems non-sensical to me. Therefore, I respectfully request that the Planning Commission vote to eliminate the disconnect requirement and make such recommendation to City Council. Thank you for your thoughtful consideration of this matter.

Very Truly Yours,


Mark J. Kerslake

Kirsten Whetstone

From: Letty Callinan <otcb@aol.com>
Sent: Wednesday, November 30, 2016 12:44 PM
To: Kirsten Whetstone
Cc: jim.callinan@osterweis.com
Subject: Re: Application PL-16-03209

Kirsten,

That is what I thought. Thank you for spelling it out so clearly.

Letty

Letty Callinan
otcb@aol.com
(415) 407-9405

-----Original Message-----

From: Kirsten Whetstone <kirsten@parkcity.org>
To: Letty Callinan <otcb@aol.com>
Cc: jim.callinan <jim.callinan@osterweis.com>
Sent: Wed, Nov 30, 2016 10:03 am
Subject: RE: Application PL-16-03209

Hi Letty,

Does this help?

There is not an exact dislocation.

The zoning map I sent shows two RC Zoned properties.

The Slalom Village site is the one that is not the St. Regis Hotel (ie. the other RC Zoned property).

It is in the general location of the end of the Ski Lift noted on this attachment.

The Slalom village site is on both sides of the Deer Hollow Road (aka Keetley Road) – generally near the bottom of the Deer Crest Chair lift.

Kirsten

Kirsten A. Whetstone, MS, AICP
Senior Planner

Park City Planning Department
PO Box 1480
Park City, UT 84060

From: Letty Callinan [mailto:otcb@aol.com]
Sent: Tuesday, November 29, 2016 9:47 PM

To: Kirsten Whetstone
Cc: jim.callinan@osterweis.com
Subject: Re: Application PL-16-03209

Kirsten,

Thank you for sharing the maps. I have to admit I still find it a bit confusing as to where the Slalom Village is planned. The Location Map has no reference points.

Letty
Letty Callinan
otcb@aol.com
(415) 407-9405

-----Original Message-----

From: Kirsten Whetstone <kirsten@parkcity.org>
To: Letty Callinan <otcb@aol.com>
Cc: jim.callinan <jim.callinan@osterweis.com>
Sent: Tue, Nov 29, 2016 7:55 pm
Subject: RE: Application PL-16-03209

Hi Letty

I've included the map that might help you with this. The pink zoned RC parcels are 1) St. Regis Hotel and 2) unbuilt Slalom Village (as a note- we do not have a development application for the Slalom village parcel, but there is a Master Plan for future development there- would still require planning commission permission and public hearing prior to any construction).

The disconnect is a current requirement of the Deer Crest Master Planned Development (MPD) and Settlement Agreement- that Keetley Road (which I think is now called West Hollow Road) is disconnected so through traffic from US 40 to Park City is not allowed.

Deer Crest Associates is requesting an amendment to that MPD to allow the existing east and west perimeter gates to continue as permanent gates, operated as they currently do, to create that disconnect instead.

Their request is for West Hollow Road to function as it does today- where traffic from US 40, East Gate to St. Regis, Snow Top, Hidden Hollow, and to the West Gate can continue as it does today.

If the request is not approved then all of this traffic would have to take Deer Crest Estates Road (the one that winds through the Deer Crest Estates neighborhood) to get to the St. Regis, Snow Top, etc.

Anyone authorized to go on to Park City from Deer Crest, would be able to take West Hollow Road.

When the MPD was approved they did not anticipate the east and west gates becoming the permanent disconnect of traffic from US 40 to Park City (that is for those not authorized to travel through).

Let me know if you have questions.
It is confusing!

Sincerely,

Kirsten

Kirsten A. Whetstone, MS, AICP
Senior Planner

Park City Planning Department
PO Box 1480
Park City, UT 84060

From: Letty Callinan [mailto:otcb@aol.com]
Sent: Monday, November 28, 2016 11:17 PM
To: Kirsten Whetstone
Cc: jim.callinan@osterweis.com
Subject: Application PL-16-03209

Dear Kirsten,

I am a homeowner in Deercreek (Lot 5U and 6U) and received your Notice of Public Hearing regarding the request to amend the Deer Creek Settlement Agreement to eliminate the requirement for a physical disconnect of Deer Hollow Road as it passes through Deercreek.

After reviewing all of the information I could find online, I am still very confused. Could you please provide me with the following:

- A map showing the location of the Slalom Village Parcel and the proposed usage
- The exact location of the planned disconnect. Am I to assume that the existing Deer Hollow Road which currently runs from the West gate entrance up to Deer Creek Estate Drive is to become disconnected so that we can no longer travel from one end to the other?

Thank you for your clarification.

Warmly,

Letty and Jim Callinan

Letty Callinan
otcb@aol.com
(415) 407-9405

First Amendment to the Telemark Park Settlement Agreement

This First Amendment to the Settlement Agreement by and between Park City Consolidated Mines Company, Inc., a Utah corporation, Trans-Wasatch Company, L.L.C., and Utah limited liability company (collectively, the Property Owners) and Park City Municipal Corporation, a political subdivision of the State of Utah, dated December 29, 1995 (the Telemark Park Settlement Agreement or the Settlement Agreement), is entered into this 8 day of April, 1997 by and between Deer Crest Associates I, L.C., the successors in interest to the settling Property Owners and Park City Municipal Corporation (Park City). For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Deer Crest Associates I, L.C., the successor in interest to the Property Owner's interest in the Settlement Agreement, and Park City Municipal Corporation hereby agrees to modify the Telemark Park Settlement Agreement as follows:

1. Add new paragraph 3.14 to define the terms construct and construction as follows:

3.14 **Construction.** The term "construct" or "construction" means and refers to any development or construction activity (vertical or horizontal, combustible or non-combustible) for which a permit would be required by Wasatch County or Park City.

2. Paragraph 5.2 is hereby revised to read as follows:

5.2 Density, Use and Configuration. The Development Plan for the entire Property as anticipated in this Agreement shall not exceed 545 units (150 single-family, 395 multi-family units) with 42,000 gross square feet of commercial space and a 20,000 gross square foot Ski Academy. The parties agree that there shall not be more than:

- (a) 338 residential units,
- (b) support commercial space up to 5% of the gross square footage of the Slalom Village Area multi family units and the Roosevelt Gap Development,
- (c) 10,000 square feet of support commercial space at the Little Baldy Neighborhood, and
- (d) amenities and recreation facilities as generally identified and depicted herein,

all within the perimeter gates of the Property with access to Park City via Keetley Road through the west perimeter gate. Approximately an additional 182 multi-family units and a 20,000 square foot Ski Academy located within the Telemark Park Village shall have vehicular access to Park City only via U.S. Highway 40 and S.R. 248.

Units Lying West of East Perimeter Gate

	<u>Single Family</u>	<u>Multi-Family</u>	<u>Maximum Size Per Multi-Family Unit</u>
Snowtop	15	0	
Hidden Hollow	4	0	
Roosevelt Gap Dev.	0	105	2,000 sq. ft./unit
Little Baldy	60	0	
Slalom Village	5	83	2,400 sq. ft./unit
St. Louis	66	0	
Sub-Total	150	188	

Units Lying East of East Perimeter Gate

	<u>Single Family</u>	<u>Multi-Family</u>	
Telemark Park Village	0	182*	varied sq. ft.
*Density may increase as provided herein			

Snow Park Hotel Site

Snow Park Hotel Site	25*	2,000 sq. ft./unit
*Density may increase as provided herein		

3. Paragraph 5.2.1 is hereby revised to read as follows:

5.2.1 Snowtop/Hidden Hollow. The Amended Density Determination contains an approval for 19 single family lots in the Snowtop/Hidden Hollow neighborhoods. Property Owners will prepare a plat for the development of 15

single family lots in the Snowtop neighborhood which they will submit to Wasatch County for review and consideration, with timely written notice and copies of all materials submitted to Wasatch County to Park City. The Hidden Hollow property comprises roughly 84 acres, upon which Property Owners propose to develop four single family Estate lots, with building envelopes, areas of disturbance, limits of disturbance and open space conservation easements, all as generally depicted on the map (for both Snowtop and Hidden Hollow) attached hereto as Exhibit "D,"

4. Paragraph 5.2.1.1 is hereby revised to read as follows:

5.2.1.1 Annexation Procedure for the Snowtop/Hidden Hollow Area. Upon dismissal of the Action with prejudice, temporary physical disconnection of the Keetley Road (as provided in Section 4.4 above), Property Owners may submit a complete application for annexation of the Snowtop/Hidden Hollow Area. Upon Wasatch County's approval of the final plat for a 15 lot subdivision of the Snowtop neighborhood, Property Owners shall submit to Park City a complete petition for annexation, as limited by this Section, for the Snowtop/Hidden Hollow Area, with irrevocable offers of dedication of designated open space and conservation easements of contiguous property (the Snowtop/Hidden Hollow Area), all as depicted on Exhibits "D" and "N." The parties agree and acknowledge that if the portion of the complete petition for annexation for the Snowtop neighborhood is submitted in the form of a final unrecorded plat, Property Owners shall be entitled to an expedited annexation review process (Expedited Petition), more fully described below. Property Owners' Expedited Petition for annexation for the Snowtop/Hidden Hollow Area may be submitted without a visual analysis or annexation

fee. Any petition for annexation of the Snowtop/Hidden Hollow Area shall provide for affordable employee housing, subject to Park City qualified renters guidelines and shall otherwise comply with Park City Resolution No. 7-95. The total affordable employee housing obligation for the Snowtop/Hidden Hollow area shall be one (1) unit. Property Owners' affordable employee housing obligation can be satisfied anywhere on the Property, at Property Owners' discretion. The Park City staff and the City Council have reviewed Exhibit "D" and have found the same to be generally acceptable as to density, use and configuration. Within fourteen (14) days of the receipt of an Expedited Petition for annexation and irrevocable offer for dedication, Park City shall notify Property Owners of any additional information necessary to make the petition complete. Upon the earlier of submittal of the additional information requested by Park City or after the passage of fourteen (14) days without providing written notification to Property Owners, Park City shall have up to 120 days from such notice and submission of the Expedited Petition within which to annex the Snowtop/Hidden Hollow Area. Prior to application for annexation, and during annexation review, Property Owners shall not engage in any construction activity within the Snowtop/Hidden Hollow Area. Property Owners will attempt to supply the additional information necessary for its consideration, review and approval of the Expedited petition for annexation. Upon the expiration of the 120 day period following the submission of an Expedited Petition for annexation, Property Owners may record the final plat and obtain building permits from Wasatch County for the construction of the Snowtop Neighborhood as a Wasatch County development, but the irrevocable offers of dedication of designated open space and conservation easements made pursuant to this Section 5.2.1.1 shall continue in force.

Property Owners will not object to or interfere with Park City's efforts to annex the Snowtop neighborhood after the lesser of one year or the completion and/or installation of the infrastructure.

5. Paragraph 5.2.3 is hereby revised to read as follows:

5.2.3 **Slalom Village.** Property Owners will seek to amend the 1991 Density Determination to allow for the development of the Slalom Village Area, with no more than 83 multi-family units (2,400 sq. ft/unit, which shall not be deemed unit equivalents under *Park City Land Management Code*) (of which not less than 60% of the units developed shall be concentrated into a single structure (the "Primary Village Structure")), with support commercial up to five percent (5%) of the gross square footage of the Slalom Village structures and appropriate amenities, all within the Slalom Village development envelope, along with five (5) single-family lots, and a ski chair lift which base terminal may be located in any reasonable location within a 1,100 foot radius of Slalom Village all as depicted in Exhibit "F."

Paragraph 5.2.3.1 is hereby revised to read as follows:

5.2.3.1 **Annexation Procedure for the Slalom Village Area.** Property Owners may submit an application for annexation of the Slalom Village Area at any time. Upon the approval of a final plat or record of survey in Wasatch County for any portion of the Slalom Village Area, but in all cases prior to application for a building permit for any portion of the Slalom Village, Property Owners will deliver to Park City a petition for annexation of the Slalom Village Area to Park City which shall be entitled to expedited

done

review (the Expedited Petition). Any petition for annexation of the Slalom Village Area shall provide for affordable employee housing, subject to Park City qualified renters guidelines and shall otherwise comply with Park City Resolution No. 7-95. The total affordable employee housing shall be four percent (4%) of the total number of units within the Slalom Village Area. At their own discretion, Property Owners' affordable employee housing obligation can be satisfied within any unincorporated area of the Property. The Park City staff and City Council have reviewed Exhibit "F" and have found the same to be generally acceptable as to density, use and configuration. Within fourteen (14) days of the receipt of the Expedited Petition for annexation, Park City shall notify Property Owners of any additional information necessary to make the petition complete. Upon the earlier of submittal of the additional information requested by Park City or after the passage of fourteen (14) days without providing written notification to Property Owners, Park City shall have up to 120 days from such notice and submission of the petition within which to annex the Slalom Village Area. The complete Expedited Petition delivered to Park City as outlined above shall be exclusive to Park City for 120 days, and during such period Property Owners shall not pull building permits or engage in any construction activity except as explicitly described herein. Upon the expiration of the 120 day period, following submission of an Expedited Petition, Property Owners may obtain building permits from Wasatch County for the construction of Slalom Village as a Wasatch County development, but will not object to or interfere with Park City's efforts to annex Slalom Village Area after the lesser of one year or the completion and/or installation of the infrastructure. Park City shall promptly commence and process the annexation review upon complete petition filed by Property Owners.

7. Paragraph 5.2.3.2 is hereby revised to read as follows:

5.2.3.2 **Annexation Agreement.** If Slalom Village is annexed into Park City, then the following conditions of development shall bind the parties: (a) the density of Slalom Village Area shall not exceed 83 multi-family units (maximum 2,400 sq. ft./unit) with support commercial space up to 5% of the gross square footage and appropriate amenities, five(5) single-family lots, (b) a ski chair lift shall be constructed within a 1,100 foot radius of the Primary Village Structure at Slalom Village prior to the issuance of a certificate of occupancy for any portion of the Slalom Village Area, (c) the Primary Village Structure shall be placed to physically disconnect the historical configuration of Keetley Road, and (d) the Property Owners shall irrevocably grant limited conservation easements to the ski run(s) and remaining areas, as so depicted in Exhibit "N." Property Owners shall offer, but Park City shall not accept the conservation easements until the ski runs and appurtenant ski facilities are built or for a period of one year from certificate of occupancy, whichever is earlier. As more fully described in Section 5.2.2.1 above, Property Owners may transfer up to ten (10) single-family and/or multi-family units from the Slalom Village Area to Telemark Park Village outside the eastern perimeter controlled access gate, in exchange for an increase of up to ten (10) multi-family units being added to the Snow Park Hotel Site, upon Park City's consent. 

8. Paragraph 5.2.3.3 is hereby revised to read as follows:

5.2.3.3 **Development Alternatives to Slalom Village.** In the event Property Owners elect not to construct the development described in Section 5.2.3 above, then

Property Owners shall have the right to develop a single family subdivision not to exceed twelve (12) lots in place of the 83 multi-family units. The twelve (12) lots shall be platted in Wasatch County and may be recorded within the Slalom Village development envelope with limits of disturbance established by Wasatch County and as generally depicted in Exhibit "S." The Park City staff and City Council have reviewed Exhibit "S," and found said exhibit to be generally acceptable as to density, use and configuration. The twelve (12) single-family lots are in addition to the five (5) lots shown on Exhibits "C" and "F". Property Owners shall have the right to develop the 12 single-family lot subdivision as a Wasatch County development. In the event Property Owners elect to develop the twelve (12) single-family lot subdivision, then Property Owners shall realign and construct Keetley Road as depicted on Exhibit "S," wherein Slalom Village becomes a cul-de-sac that is not accessible from the eastern portion of Keetley Road except via St. Louis Drive.

9. Paragraph 5.2.3.7 is hereby revised as follows:

5.2.3.7 **Ski Academy.** The parties understand and agree that the 20,000 square foot Ski Academy, which Deer Crest Associates I, L.C. may construct at Telemark Park Village (now known as Jordanelle Village Resort), shall be used as an academic athletic institution and/or ski training facility whose students/attendees are expected to reside within the Telemark Park Village and/or Amended Telemark Park Resort (now known as Deer Crest). Alternatively, Property Owners may use the 20,000 square foot Ski Academy or other approved structure in a manner that will result in similar impacts to the area within the Property.

10. Paragraph 5.2.3.10 is hereby revised as follows:

5.2.3.10 **Slalom Village Parking.** Property Owners may construct no more parking stalls underneath the Slalom Village multi-family unit structure than are required to service that structure as may be required by the appropriate Wasatch County official(s). The parking structure at Primary Village Structure may be accessible from Park City so long as the connection between the parking levels is designed to Park City's reasonable satisfaction in such a manner that sufficiently discourages the tendency to use the Keetley Road as a means of vehicular travel from U.S. 40 to Park City. It is contemplated that such will be accomplished by the construction of a multi-level structure with vertical separation between the east and west parking entrances, and an internal ramping and gate system.

11. Paragraph 5.2.6 is hereby revised as follows:

5.2.6 **Telemark Park Village.** Property Owners will seek to amend the 1991 Density Determination in Wasatch County as depicted in Exhibits "B" and "C," wherein the Telemark Park Village shall contain a density of 188 multi-family units, a 20,000 square foot ski academy and identified commercial space. Property Owners may increase the density of the Telemark Park Village as described in Sections 5.2.2.1 and 5.2.6.2.

12. Paragraph 5.3.1 is hereby revised follows:

5.3.1 **Timing of Annexation of Snowtop/Hidden Hollow Area, Roosevelt Gap Development and Slalom Village.** As more particularly described in Sections

5.2.1.1, 5.2.2.4 and 5.2.3.1, Property Owners contemplate submitting petitions of annexation, as more fully described herein, for the Snowtop/Hidden Hollow Area, Roosevelt Gap/Snow Park Area and Slalom Village Area to Park City. With respect to the Snowtop Neighborhood and Slalom Village Area, these development areas will be petitioned for annexation either as agreed, or as platted or surveyed (and depicted in Exhibits "D" and "F") in Wasatch County. Park City shall have a specified number of days in which to annex the area(s) submitted on Expedited Petitions. Park City may, but is not required to, allow Property Owners to pursue not more than two (2) Expedited Petitions for annexation of the Snowtop/Hidden Hollow Area, Roosevelt Gap Development or the Slalom Village Area concurrently, simultaneously, or within the same time period.

13. Paragraph 5.3.1.2 is hereby revised as follows:

✓ 5.3.1.2 **Track II for Annexation by Park City.** In the event Property Owners are not prepared to record plats or records of survey and have not secured all necessary utilities for the Snowtop Neighborhood Area or Slalom Village Area in Wasatch County, Property Owners may submit petitions for annexation of the Snowtop/Hidden Hollow Area, Roosevelt Gap/Snow Park Area or the Slalom Village Area to Park City sequentially, in any order as determined by Property Owners, with no two petitions being considered by Park City for approval simultaneously without prior approval from Park City. After the passage of the time period in which Park City shall have the exclusive right to review and approve a petition for annexation (120 or 180 days as defined herein), Property Owners may submit for review and consideration a second

petition for annexation of any additional annexation area as contemplated herein. If Property Owners request Park City's assistance in securing utility services and/or other development infrastructure for the Snow Top/Hidden Hollow Area or Slalom Village Area, then the annexation period may be extended for an additional six months at Park City's discretion.

14. Paragraph 5.11.1 is hereby revised as follows:

5.11.1 Right to Construct Roads, Ski Runs, Lift and Related Appurtenances.

The parties acknowledge and agree that certain roads, six (6) ski runs, one (1) ski access trail, one (1) ski lift and certain lift and related appurtenances within the areas contemplated for annexation herein are necessary for the development of areas not contemplated for annexation. In the event Property Owners proceed to develop non-annexation areas prior to Property Owners' petition for annexation, Park City agrees not to interfere with the construction of improvements identified below pursuant to Wasatch County approvals and building permits. Such construction shall not alter the Property Owners' obligations, as set forth and contemplated herein, to offer the first annexation of those areas prior to February 2, 1998 (and the last offer no later than October 31, 1998) and to not construct any further infrastructure or improvements within the proposed annexation areas prior to the determination of annexation, as provided in this Settlement Agreement. The roads, utilities, ski runs, ski lifts and related appurtenances which may be constructed prior to any petition for annexation, or any plat or record of survey approved within the annexation areas are depicted on the attached Exhibits "Z-1" and "Z-

2" and are more particularly described in Paragraph 5.11.1.1, 5.11.1.2 and 5.11.1.3, below:

5.11.1.1 **Ski Lift, Ski Runs and Related Improvements.** Deer Crest Associates I, L.C. intends to add ski terrain to Deer Valley Resort for the 1997-98 ski season. To complete the work Deer Crest Associates I, L.C. will commence work in early Spring 1997 before completing any annexation process. Accordingly, Deer Crest Associates I, L.C. may proceed to complete construction of six (6) ski runs and one (1) ski access trail, including grading and widening, plus any utilities and facilities (i.e., Deer Crest Chairlift) located in the areas shown on Exhibits "Z-1" and "Z-2." The acreage of said runs will be approximately 34 acres. Also, Homerun ski trail (portions of which were constructed Summer '96) may be widened and/or constructed consistent with Paragraph 5.11.1.3 below and Exhibit Z-2. The first step will be a "line of sight" survey for the Deer Crest Chair Lift. Construction will include related improvements such as snowmaking/irrigation/fire protection lines (one common "green line") and equipment, electric power to operate the lifts, transformer housings, telephone lines, an inconspicuously placed maintenance/storage building not exceeding 500 square feet, drainage and water quality control devices, etc., as well as a 250 square foot temporary office at the base of the lift for the use by the operator of the ski facilities (not to be used for real estate sales or promotion). Deer Crest Associates I, L.C. may also construct water and sewer lines along the side of the Kid's Delight run adjacent to Lots 1 through 5, water

lines along the side of the Weasel Run to Roosevelt Gap, and the sewer line along the Deer Hollow Run from Roosevelt Gap to Deer Hollow Road.

5.11.1.2 **Other Open Space Improvements.** Deer Crest Associates I, L.C. will construct or restore in the open space and annexation areas contemporaneously with the construction identified in subparagraph 5.11.1.1 above, biking and hiking trails as shown on Exhibit "Z-2," (i.e., restoration and/or construction of super spin and spin cycle).

5.11.1.3 **Roads Serving Non-Annexation Areas.** Deer Crest Associates I, L.C. may proceed with construction of Deer Hollow Road (formerly known as Keetley Road), Summit Drive (formerly known as Little Baldy Road) and Deer Crest Estates Drive (formerly known as St. Louis Drive) all of which access a non-annexation area. Also, Home Run will serve as the temporary secondary access to such areas and may have to be widened in places. Road construction will also include the permanent west gates and gate house as well as utilities (sanitary sewer, water, irrigation, storm water, power, telephone, gas, and cable tv) in the roadway corridors, and improvements associated with the roadways such as retaining walls, guardrails, lighting, signs, and certain utilities that must be placed in the roadway or adjacent open space areas.

5.11.1.4 **Mini-Review Process.** Deer Crest Associates I, L.C. will provide Park City with plans and applications relating to the construction activities provided under this Section 5.11.1, twenty-one (21) days in advance of filing the same with

Wasatch County for Park City's substantive review and comment for conformance with the Settlement Agreement, as amended.

5.11.1.5 Review Fees. Upon submitting any application under 5.11.1.4 Property Owner shall pay all Park City Community Development permit review fees associated with permitted construction activity within the annexation areas.

15. Add new paragraph 5.13 to define terms of timing annexation applications as follows:

5.13 Timing of Annexation Applications. Pursuant to subparagraphs 5.2.1.1, 5.2.2.4 - 5.2.2.6, 5.2.3.1 Deer Crest Associates I, L.C. is obligated to submit complete applications for annexation of the Snowtop/Hidden Hollow Area, Roosevelt Gap Development Area, and Slalom Village Area. Property Owners may submit an application for annexation to Park City of one or all of these areas at anytime, but shall submit the first application for annexation to Park City of these areas no later than February 2, 1998 and the last application for annexation to Park City of these areas no later than October 31, 1998.

16. Paragraph 7.4 is hereby revised to read as follows:

7.4 Notice. Except where a longer period is provided in Section 5.11.1 above, Deer Crest Associates I, L.C. will provide Park City with copies of plan packages and other processing documents (i.e. building permit applications) to be filed by

Deer Crest Associates I, L.C. in Wasatch County ten (10) days in advance of filing with the County. Upon receipt, Deer Crest Associates I, L.C. will promptly provide Park City with copies of any written communications from Wasatch County in response to such submittals. Deer Crest Associates I, L.C. will attempt to accommodate Park City's comments under Paragraph 5.11.1.4 and this Paragraph 7.4 in the spirit of good faith and cooperation before any submittal is made to Wasatch County. To the extent notice is required by this Agreement, such notice shall be given in writing and personally delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the parties at the following addresses:

Deer Crest Associates I, L.C.:

c/o LCC Properties Group, L.C.
David M. Luber
Managing Member
136 Heber Ave. Suite 308
P.O. Box 8888
Park City, Utah 840060

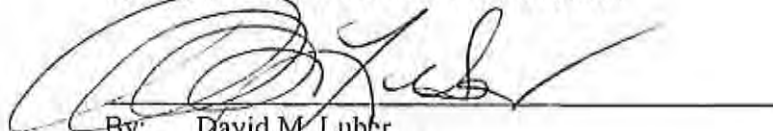
Park City Municipal Corporation

Toby Ross
City Manager
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060

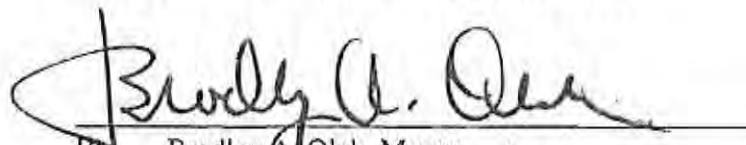
Executed this 8 day of April, 1997.

DEER CREST ASSOCIATES I, L.C.

By: LCC PROPERTIES GROUP, L.C.


By: David M. Lubber
Managing Member

PARK CITY MUNICIPAL CORPORATION


By: Bradley A. Olch, Mayor

ATTEST:


Jan Scott, City Recorder



APPROVED AS TO FORM:

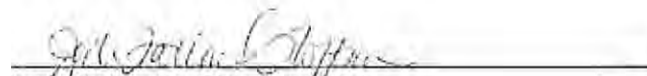

Jodi Hoffman, City Attorney

EXHIBIT "B"
DEVELOPMENT PLAN

SECOND AMENDMENT TO THE TELEMARK PARK SETTLEMENT AGREEMENT

This Second Amendment to the Telemark Park Settlement Agreement (this "Second Amendment") is entered into this 6th day of April, 2001 by and between Hidden Hollow Associates, LLC, a Utah limited liability company ("Hidden Hollow"), Deer Crest Associates I, L.C., a Utah liability company ("Deer Crest") and Park City Municipal Corporation, a political subdivision of the State of Utah ("Park City").

Recitals

A. Pursuant to a Settlement Agreement between Park City Consolidated Mines Company, Inc., a Utah corporation ("Consolidated Mines"), Trans-Wasatch Company, L.L.C., a Utah limited liability company ("Trans-Wasatch"), and Park City dated December 29, 1995 (the "Settlement Agreement"), the parties thereto made reciprocal promises affecting among other parcels, the parcel of land described in Exhibit "A" (the "Hidden Hollow Property").

B. The parties to the Settlement Agreement agreed that four (4) single family Estate lots would be permitted on the Hidden Hollow Property, with building envelopes, configurations, and other features further specified within the Settlement Agreement and its Exhibits.

C. Pursuant to a First Amendment to the Settlement Agreement between Deer Crest, the successor in interest to Consolidated Mines and Trans-Wasatch with respect to a portion of the subject property, and Park City dated April 8, 1997 (the "First Amendment"), the parties thereto made certain revisions of and clarifications to the Settlement Agreement.

D. Deer Crest and Park City approved additional revisions of and clarifications to the Settlement Agreement in December of 1998, but never recorded said amendments in written form. The parties now wish to include those revisions in this Second Amendment (Paragraph 5, below).

E. Hidden Hollow owns the Hidden Hollow Property and is the successor in interest to all of the rights and obligations in the Hidden Hollow Property which resulted from the Settlement Agreement and the First Amendment.

F. Upon Hidden Hollow's application to Park City to subdivide the property, Hidden Hollow expressed its willingness to redesign the subdivision based upon input from the Park City Community Development staff and the Park City Planning Commission. Several of the more visible building envelopes were eliminated, thereby decreasing opportunities for building sites. In exchange for this concession, Park City agreed to allow five (5) single family Estate lots on the Hidden Hollow Property with the building envelopes, configurations, and other features further specified in this Second Amendment.

G. The parties to this Second Amendment wish to amend the Settlement Agreement and the First Amendment to reflect Park City's decision to allow five (5) single family Estate lots on the Hidden Hollow Property with the building envelopes, configurations, and other features further specified in this Second Amendment. Park City wishes to do so without decreasing the total number of lots permitted to the owners of other real property parcels which were subject to the Settlement Agreement.

Agreement

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Second Amendment, intending to be legally bound, hereby agree as follows:

1. The following paragraphs in the Settlement Agreement and the First Amendment are hereby amended to delete references to four (4) single family Estate lots on the Hidden Hollow Property, and references to five (5) single family Estate lots on the Hidden Hollow Property are hereby inserted in place of the deleted references:

Settlement Agreement	First Amendment
Paragraphs 5.2 to 5.2.1.5, inclusive; Exhibit B, "Develop. Density Table"	Paragraphs 2 and 3

2. The following paragraphs in the Settlement Agreement and the First Amendment are hereby amended to delete references to one hundred fifty (150) total single family units lying West of the East Perimeter Gate, and references to one hundred fifty-one (151) total single family units lying West of the East Perimeter Gate are hereby inserted in place of the deleted references:

Settlement Agreement	First Amendment
Paragraph 5.2(e)	Paragraph 2

3. The following paragraphs in the Settlement Agreement and the First Amendment are hereby amended to delete references to five hundred forty-five (545) units, and references to five hundred forty-six (546) units are hereby inserted in place of the deleted references:

Settlement Agreement	First Amendment
Paragraph 5.2	Paragraph 2

Any other references in the Settlement Agreement and First Amendment to unit numbers which should be increased by virtue of the increase in total single family units from one hundred fifty (150) to one hundred fifty-one (151) shall be deemed so increased.

4. The map attached hereto as Exhibit "B" supersedes any inconsistent exhibits contained in the Settlement Agreement and First Amendment for the Hidden Hollow and Snow Top property, including, but not limited to, Settlement Agreement Exhibits "B", "D", "N" and "U" and First Amendment Exhibits "B", "D", "N" and "U". Accordingly, for purposes of the Settlement Agreement, as amended, and development of the Hidden Hollow and Snow Top properties, Exhibit "B" controls over other plats and maps.

5. Paragraph 5.2.2.5 of the Settlement Agreement is hereby deleted, and replaced by the following amended Paragraph 5.2.2.5, approved by the City Council of Park City in December of 1998:

5.2.2.5 Annexation Agreement for Alternative A for the Roosevelt Gap/Snow Park Hotel Area. If the Roosevelt Gap/Snow Park Development Area is annexed into Park City under Alternative A, then the following conditions of development shall bind the parties: (a) the density of the Roosevelt Gap Lodge shall not exceed 105 Park City Unit equivalents; (b) the funicular tramway shall be installed at the earliest opportunity; (c) Property Owners shall make offers of dedication of conservation easements, and shall designate development envelopes, all as depicted in Exhibit "N" attached hereto; (d) the remainder of the Roosevelt Gap/Snow Park Development Area shall be dedicated open space to Park City as depicted in Exhibit "N" attached hereto; and (e) there shall be no overnight parking at Roosevelt Gap Lodge unless the Planning Commission approves overnight parking at Roosevelt Gap Lodge in conjunction with a Master Planned Development of a luxury resort hotel, upon Property Owner's demonstration that the remainder of the Project has been modified to result in no net increase of traffic on the Keetley Road as a consequence of the provision of overnight parking at Roosevelt Gap. The Planning Commission may approve up to 105 overnight parking spaces at Roosevelt Gap without further Council action.

6. Any references within the Settlement Agreement or the First Amendment which are inconsistent with the intent of the parties to this Second Amendment, as set forth in paragraph "G" in the "Recitals" section and paragraphs 1, 2, and 3, above of this Second Amendment, are hereby reformed and shall be construed to be consistent with this Second Amendment.

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the date first written above.

APPROVED AS TO FORM:

PARK CITY MUNICIPAL CORPORATION


Mark Harrington, City Attorney


By: Bradley A. Olch, Mayor

ATTEST:

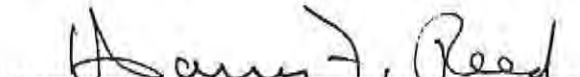

Jan Scott, City Recorder



HIDDEN HOLLOW ASSOCIATES, LLC

By: Skyline Land Company, Inc.

Its: Manager


By: Harry F. Reed
Its: President

DEER CREST ASSOCIATES I, L.C.

By: Grand Harvest Venture, LLC

Its: Manager


By: Angela C. Sabella
Its: Manager

**EXHIBIT "A" To Second Amendment to
Telemark Park Settlement Agreement**

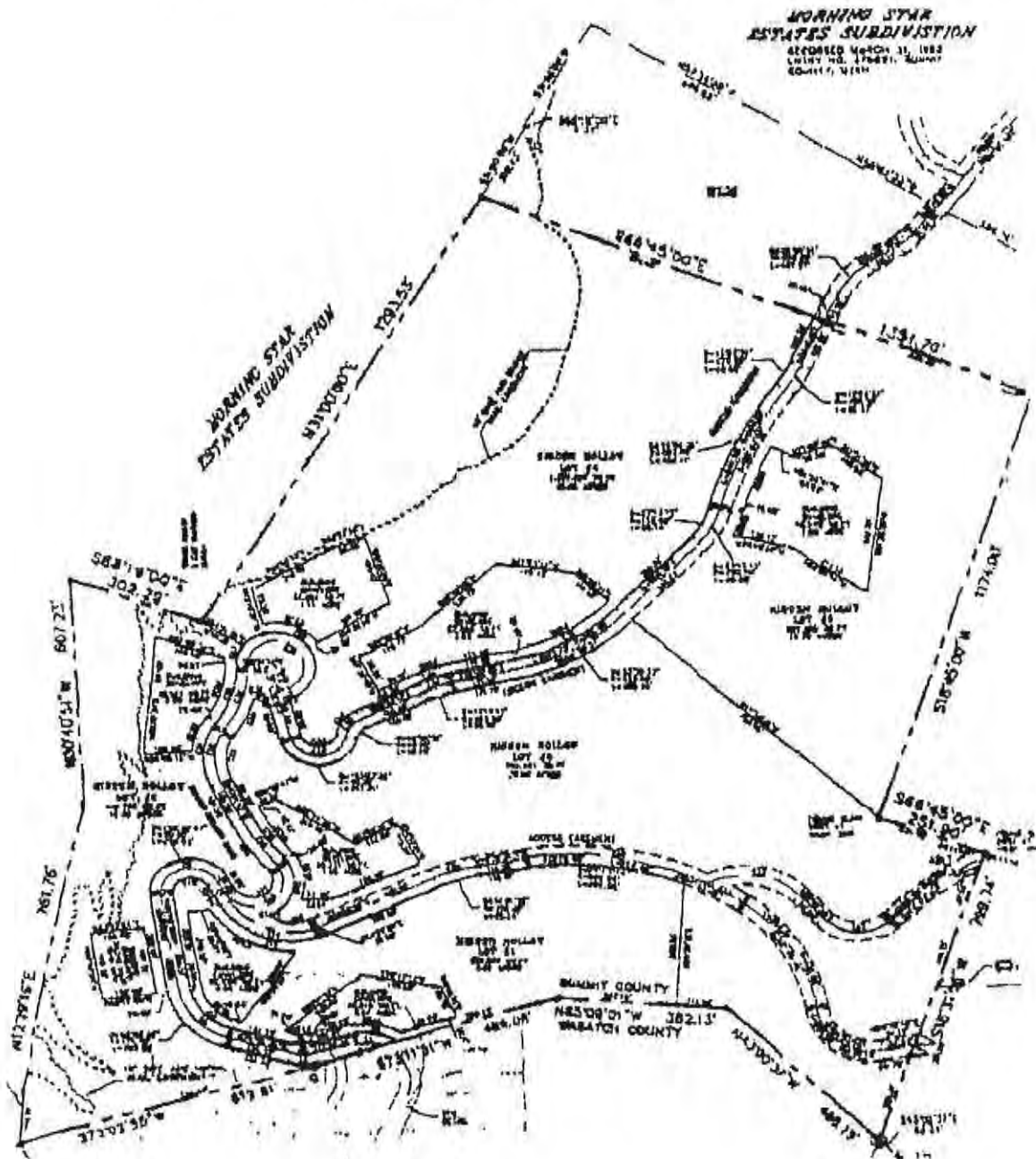
Beginning at a point on the Summit-Wasatch County line, said point being South 0°30'11" West 529.16 feet along the section line and East 5719.73 feet from the East quarter corner of Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence North 4°33'29" East 142.89 feet; thence North 12°19'16" East 761.76 feet; thence North 0°40'51" West 620.11 feet more or less; thence along the South line of the Republican Mining Claim (MS 4980) South 68°19'00" East 310.72 feet more or less; thence along the East line of the Republican Mining Claim North 31°00'00" East 1281.41 feet more or less; thence along the North line of the Queen Esther No. 5 Mining Claim (MS 6979) South 66°45'00" East 1350.12 feet more or less; thence along the East line of the Queen Esther No. 4 and the Queen Esther No. 5 Mining Claims South 18°45'00" West 1174.00 feet more or less; thence along the North line of the Queen Esther No. 3 Mining Claim South 66°45'00" East 251.90 feet more or less; thence along the East line of the Queen Esther No. 3 Mining Claim South 18°31'58" West 799.74 feet; thence along the Summit-Wasatch County line the following 4 courses: 1) North 43°00'37" West 488.15 feet; thence 2) North 85°09'01" West 382.13 feet; thence 3) South 73°11'51" West 485.08 feet; thence 4) South 73°02'55" West 812.81 feet to the point of beginning.

TOGETHER WITH all rights-of-way and easements appurtenant to such real property set forth in the Declaration of Easements, Covenants and Restrictions, recorded July 1, 1996 as Entry No. 457356 in Book 975 at Page 335 of the official records of the Summit County Recorder.

TOGETHER WITH Water Right No. 35-8833, Certificate No. 3006, as such right is more particularly defined in the records of the Utah Division of Water Rights.

EXHIBIT "B"

To Second Amendment to Telemark Park Settlement Agreement





April 18, 2016

Deer Crest Janna, LLC
500 Mamaroneck Ave, Suite 406
Harrison, NY 10528

NOTICE OF PLANNING COMMISSION ACTION

<u>Application #</u>	PL-16-03101
<u>Subject</u>	St Regis Deer Valley
<u>Project Address</u>	2300 Deer Valley Drive
<u>Description</u>	Amended Deer Crest Hotel Conditional Use Permit
<u>Action Taken</u>	Approved as amended at the Planning Commission meeting.
<u>Date of Action</u>	April 13, 2016

On April 13, 2016, the Park City Planning Commission conducted a public hearing and approved an application for an amendment to condition #14 of the June 18, 2009, amended Deer Crest Hotel Conditional Use Permit (CUP), also amending conditions of approval #3 and #4 of the April 23, 2014, amended Deer Crest Hotel CUP regarding timing of construction for Phases 2 and 3 at the Snow Park site. Final action is subject to the following findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. This application is a part of a larger Master Planned Development known as the Deer Crest Annexation MPD and is subject to the 1995 Deer Crest Settlement Agreement, as amended in December of 1998 and also in April 6, 2001, by the City Council. On February 28, 2001 Planning Commission approved the Deer Crest Hotel CUP (formally known as the Rosewood CUP). Amendments to the CUP were approved by the Planning Commission on July 25, 2001, March 24, 2004, May 11, 2005, April 22, 2009, and April 23, 2014. The City Council denied an appeal of the April 22nd approval on June 18, 2009.

2. The proposed density of 99.5 residential unit equivalents at Roosevelt Gap, 30.5 residential unit equivalents for Snow Park (total of 130 unit equivalents) and up to 5% of the gross floor area for support commercial uses with an additional 5% gross floor area for meeting space on the 12.07 acre development site is consistent with the Deer Crest Settlement, as amended.

3. The proposal is located in the RD (Residential Development) and RC (Resort Commercial) zoning districts subject to the Deer Crest Settlement Agreement and MPD.

4. A total of 244 parking spaces are required for the entire CUP, with a maximum of 146 spaces allowed at Roosevelt Gap and the remaining spaces required at Snow Park (north and south sites). The December 12, 2000, traffic and parking study by Sear-Brown relies on a guest and employee shuttle system, with a majority of the employee parking provided at Jordanelle Village off of Highway 40. With the shuttle system and parking provided at Jordanelle Village the existing parking, with the surface parking lots at Snow Park, is adequate to meet the demands of the existing uses.

5. A total of 105 overnight parking spaces, and up to 41 day use spaces, are allowed at the Roosevelt Gap site. Eight of these spaces are provided as tandem spaces for valet parking. The amended Settlement Agreement, allowed the Planning Commission to approve overnight parking in conjunction with a luxury hotel and upon demonstration that the remainder of the (Deer Crest) project has been modified to result in no net increase of traffic on Keetley Road.

6. A one- year review of the parking and traffic situation, after certificates of occupancy were issued, was conducted by the applicant and presented to the Planning Commission on January 11, 2012 to evaluate actual traffic and parking impacts of this project. No additional issues were raised and the traffic and parking impacts were found to be mitigated as approved.

7. It is the desire of the developer to build this project in three phases. The first phase is complete and consists of the 105 Roosevelt Gap hotel/condominiums (99.5 UE), including a restaurant, bar, and spa; the funicular and funicular building at Snow Park (the funicular building contains one condominium unit, common area for the hotel lobby and check in, back of house hotel uses, and two affordable housing units); and a temporary sales office with surface parking.

The second phase consists of the south parking structure at Snow Park with condominium units above (approximately 10 UE). The third phase consists of the north parking structure and condominium units above (approximately 20.5 UE). The total density approved for Snow Park is 30.5 UE.

8. During construction of the North Snow Park site when the 56 surface spaces are not available and until the north parking structure is complete, there will be a possible shortage of parking spaces at Snow Park. The applicants indicate that they can accommodate any shortfall during construction by tandem parking with valet service in the South Snow Park parking structure and within the porte-cochere/drop off area at Snow Park.

9. Staff has reviewed this application for an amendment to condition of approval #14 (of the 2009 CUP approval) as described in this staff report, and as amended with the April 2014 CUP approval and finds the application in compliance with the Conditional Use Permit criteria and consistent with the Deer Crest Settlement Agreement, as amended. Staff has also reviewed the request for an amendment to condition of approval #4 of the

2014 amended CUP approval and finds the application in compliance with the Conditional Use Permit criteria and consistent with the Deer Crest Settlement Agreement, as amended.

10. The surface parking was constructed to the requirements of a permanent surface parking lot, including paved surface, physical dimensions, landscaping, lighting, storm water, and a final finish treatment was applied to the retaining wall as previously conditioned.

11. Staff finds that these amendments provide clarity in terms of construction phasing and provision of an updated parking study.

12. The regulations and language in the Land Management Code regarding Conditional Use Permit review as well as Lot and Site regulations in the Residential Development (RD) District code have not substantially changed since the CUP approval and there has been no change in circumstance of the property that would necessitate submittal of a new Conditional Use Permit application.

Conclusions of Law

1. 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.

2. There is no change in Use. The approved Use was determined to be compatible with surrounding structures in use, scale, mass, and circulation.

3. The approved Use was found to be consistent with the Park City General Plan per the June 18, 2009 approval. The requested amendment is not contrary to the General Plan.

4. The proposal is consistent with the Deer Crest Annexation and the 1995 Deer Crest Settlement as amended.

5. The effects of any differences in use or scale have been mitigated through careful planning and conditions of approval.

Conditions of Approval

1. All standard project conditions shall apply.

2. All conditions of approval of the 1995 Deer Crest Settlement Agreement, as amended, continue to apply.

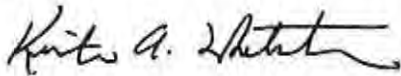
3. All conditions of approval of the Deer Crest Hotel CUP approved on February 28, 2001 (then known as the Rosewood CUP) and amended by the Planning Commission on July 25, 2001; March 24, 2004; May 11, 2005; and April 22, 2009 (with final approval by the City Council on appeal on June 18, 2009), and April 23, 2014, shall continue to apply, with the exception of Condition #14, amended again, with this April 13, 2016 CUP Amendment as follows:

14. The applicant shall submit a complete application and building plans for construction of the Phase 2 parking structure and condominium units at Snow Park South, on or prior to December 31, 2017. If plans are not submitted within this date, the prior CUP approval for Snow Park South shall expire and a new Conditional Use Permit application will be required to be reviewed by the Planning Commission prior to submittal of such building plans for the Snow Park Site. A complete building permit application for Phase 3 shall be submitted by December 31, 2020.

4. Prior to issuance of a building permit for Phase 2 the applicant shall submit for review by the Planning Department Staff an updated parking study for the St. Regis Deer Valley Hotel and an interim-parking layout, to be approved by the Planning Department Staff, addressing any temporary parking shortages that may occur due to loss of surface parking during construction at Snow Park.

If you have questions regarding your project or the action taken please don't hesitate to contact me at (435) 615-5066 or kirsten@parkcity.org.

Sincerely,



Kirsten A. Whetstone, MS, AICP
Senior Planner

Cc File



March 7, 2011

Greg Griffin
Deer Crest Janna, LLC
PO Box 4493
Park City, UT 84060

NOTICE OF PLANNING COMMISSION ACTION

<u>Application #</u>	PL-11-01189
<u>Subject</u>	2300 Deer Valley Dr. East
<u>Address</u>	2300 Deer Valley Dr. East
<u>Description</u>	CUP for Amenity Club
<u>Action Taken</u>	Approved with Conditions
<u>Date of Action</u>	February 23, 2011

On February 23, 2011, the Planning Commission called a meeting to order, a quorum was established, a public meeting was held, and the Planning Commission approved the Conditional Use Permit for an Amenity Club at the St. Regis Resort according to the findings of fact, conclusions of law and conditions of approval as follows:

Findings of Fact

1. On February 3, 2011, the City received a complete application for a conditional use permit for an amenities club to be located within the St Regis Resort hotel and to utilize existing hotel amenities, including the restaurant, bar, spa, ski lockers, fitness center, and pool. A total of 195 memberships are requested for the initial one year review period with a limit of 150 members residing outside of the Deer Crest gates. 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. Membership is for singles, couples, and families.
2. This application is reviewed under Section 15-1-10 (E) of the Land Management Code.
3. 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.
4. The project has access from Deer Valley Drive and Deer Crest Estates Drive.
5. The property is located within the Recreation Commercial (RC) zoning district and is subject to the Deer Crest Settlement Agreement and the revised Deer Crest Hotel CUP as approved by the Planning Commission on April 22, 2009.
6. Amenity Clubs require a Conditional Use Permit in the RC zone.
7. 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 building or site.
8. The applicant provided a parking analysis (Exhibit B) demonstrating that there is adequate parking available for the parking requirements of the Club activities. During the busiest weeks (Christmas and Sundance) when the hotel was at its maximum occupancy the parking use was at 46% of capacity.
 9. The approved Deer Crest 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 67 valet parking spaces at Snow Park with access to Roosevelt Gap via the funicular. There are 185 parking spaces at the Jordanelle lot serviced by the employee and guest shuttle.
 10. 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.
 11. 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 Deer Crest Hotel CUP will be spelled out in the Membership Agreement.
 12. The St Regis hotel has a total of approximately 225 pillows. One or two additional employees are anticipated for the Club.
 13. No additional signs or lighting are proposed with this application.
 14. The Findings in the Analysis Section are incorporated herein.

Conclusions of Law

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 Use, as conditioned is compatible with surrounding structures in use, scale, mass, and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.
5. 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.

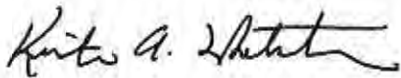
Conditions of Approval

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 operation of 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.
2. The applicant is responsible for management of the club and enforcement of the Membership Agreement.
3. The applicant stipulates to a condition of approval limiting this Conditional Use Permit approval to a maximum of 195 memberships with a limit of 150 memberships allowed for members residing outside of the area bounded by the Deer Crest gates.

4. All conditions of approval of the 1995 Deer Crest Settlement Agreement continue to apply.
5. All conditions of approval of the Deer Crest Hotel CUP as amended on April 22, 2009, continue to apply.
6. The applicant shall submit to the City Planning Department for review by the Planning Commission, a one-year review of the club, including the use, operation, membership, 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. In the event that such review reveals impacts that have not been sufficiently mitigated, the Planning Commission shall have the ability to further condition the conditional use permit to address such unmitigated impacts.

If you have questions regarding your project or the action taken please don't hesitate to contact me at 435-615-5066 or kirsten@parkcity.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Kirsten A. Whetstone".

Kirsten Whetstone
Senior Planner



Building • Engineering • Planning

June 26, 2009

Deer Crest Janna, LLC
PO Box 4151
Suite 325
Park City, UT 84060

NOTICE OF CITY COUNCIL ACTION

Project Name: Deer Crest Hotel CUP- amendment
Project Description: Request to 1) amend condition of approval #3 regarding parking at Snow Park and 2) revise phasing at Snow Park
Date of Action: June 18, 2009

Action Taken by City Council: The City Council upheld the Planning Commission approval and **APPROVED** the amendment to a conditional use permit for 2300 Deer Valley Drive, the Deer Crest Hotel CUP, according to the following findings of fact, and conclusions of law.

Appeal A (submitted by Jeri Rice, Deer Crest home owner)

Findings of Fact:

1. The subject property is located at 2300 Deer Valley Drive.
 2. On February 28, 2001, the Planning Commission approved the Deer Crest Hotel Conditional Use Permit (formally known as the Rosewood CUP). The CUP was subsequently amended on July 25, 2001; March 24, 2004; and May 11, 2005.
 3. On December 2002 a grading and soil nail wall permit was issued for Roosevelt Gap. This work was completed in the fall of 2003. On September 22, 2005, building permits were issued for grading and shoring/retaining wall construction at Snow Park. Footings and foundation permits were issued on June 7, 2006. The shell permit was issued on January 26, 2007 and the full building permit was issued for construction of the hotel in October of 2007. The hotel has been under construction for approximately 6 ½ years.
 4. On October 15, 2008, the applicants submitted a request to amend and clarify conditions of the May 11, 2005, CUP approval regarding structured parking at Snow Park (Exhibit A) related to timing of issuance of certificates of occupancy and phasing of construction at Snow Park. The applicants specifically requested an amendment to condition of approval #3 to allow issuance of certificates of occupancy for the Roosevelt Gap units based on completion of a surface parking lot at Snow Park, rather than completion of
- Park City Municipal Corporation • 445 Marsac Avenue • P.O. Box 1480 • Park City, UT 84060-1480
Building (435) 615-5100 • Engineering (435) 615-5055 • Planning (435) 615-5060
FAX (435) 615-4906

the parking structure. The applicant proposed the following amendments to Condition #3 of the May 11, 2005 amended CUP:

3. No certificates of occupancy for the Deer Crest Hotel (Roosevelt Gap units) shall be issued until the funicular is fully operational and the parking structure lot at the North Snow Park site is complete and approved for occupancy.
5. On April 22, 2009, the Planning Commission conducted a public hearing and approved the specific amendment as described in Finding #4 for the Deer Crest Hotel CUP.
6. On April 30, 2009, two appeals, one by Jeri Rice, homeowner in Deer Crest Estates Subdivision, and a second by Powder Run at Deer Valley Owner Association were received by the Park City Recorder. Both appellants are represented by attorney, Eric P. Lee, who submitted the appeals.
7. Pursuant to Land Management Code (LMC) Section 15-1-18, Appeals and Reconsideration Process- final actions by the Planning Commission on CUPs may be appealed to the City Council. Appeals must be made within ten calendar days of the Final Action (LMC 15-1-18(E)). Both appeals were filed within the ten day required time limit.
8. Staff duly and properly noticed this appeal hearing by placing a legal advertisement in the Park Record, posting required notice, and sending written notice as a courtesy to adjacent and affected property owners.
9. The italicized staff responses above to the Substance of Appeals are hereby incorporated as findings as fact.
10. On June 18, 2009, the City Council conducted a quasi judicial hearing to review the appeal.

Conclusions of Law

1. The Planning Commission was correct in approving an application to amend the Deer Crest Hotel CUP.

Order

1. The appeal from Jeri Rice, filed with the Park City Recorder on April 30, 2009, is denied.

Appeal B (submitted by the Powder Run HOA) – this appeal was withdrawn prior to the meeting.

If you have any questions or if I can be of additional assistance, please do not hesitate to call me at 435-615-5066, or send an e-mail to Kirsten@parkcity.org.

Sincerely,



Kirsten A. Whetstone, MS, AICP
Senior Planner



May 15, 2006

Park City Municipal Corp
Attn. Kirsten Whetstone
455 Marsac Avenue
Park City UT 84060

RE: Deer Crest Hotel – CUP Condition # 16 Parking Plan

Dear Kirsten,

In response to your questions and comments in your e-mail of April 17, 2006 relating to the parking plan referenced in Condition #16 of the May 2005 CUP for the Deer Crest Hotel, we have prepared this letter which incorporates some additional information in order to answer your questions and provide more clarity concerning the proposed management of the parking needs for the project. Please be advised that information described herein is based on data included in a draft version of the Parking and Traffic Analysis being prepared by IBI, and that adjustments to this information may occur when the Analysis is finalized.

Traffic Trip Estimates

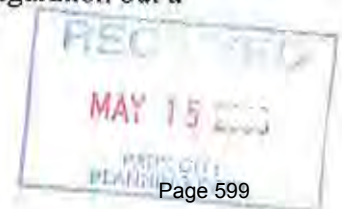
It is currently anticipated that peak hour traffic will consist of approximately 25-30 trips through the Queen Esther Gate and approximately 20-25 vehicles on Deer Hollow Drive. Peak Day traffic volumes are estimated at 250-270 and 240-260 vehicles through the Queen Esther Gate and Deer Hollow Drive respectively. These traffic estimates are based on the sum of both incoming and outgoing traffic.

Employee Projections

It is anticipated that the hotel will employ approximately 280-290 employees across all shifts, comprising 15-20 management employees using on-site parking and 260-270 regular employees using off-site parking. It is anticipated that the peak shift will include up to approximately 140 regular employees including management employees. Most of these employees will be assigned to work at the Roosevelt Gap building. It is anticipated that 50% of the management employees will park at Snow Park and 50% at Roosevelt Gap.

Special Events and Multi Use Parking

The hotel will host various functions as part of its regular operations. It is anticipated the larger events will occur in the evening hours. The Deer Crest resort also hosts a ticket sales location and day skier parking at the Deer Valley Gondola. Because these two parking demands peak at different times, the long term parking plans for the Deer Crest area are to provide a multi use shared parking area for both day skiers and special event needs in the Jordanelle Village area. This shared parking area is not finalized in its configuration but a concept drawing was provided with our April 11, 2006 letter.



Parking On Site

Parking is currently designed for approximately 233 on site parking spaces. This includes 142 at Roosevelt Gap and 91 at Snow Park.

<u>Roosevelt Gap</u>	<u>Snow Park Phase 1</u>	<u>Snow Park Phase 2</u>
55 basement level garage	33 basement garage	16 level 1 garage
69 lower level garage	23 main level garage	19 level 2 garage
2 in the loading dock	<u>10 surface parking</u>	<u>-10 surface parking</u>
8 in the porte-cochere	66 Total phase 1	25 net increase Phase 2
<u>8 at the cooling towers</u>		
142 Total R Gap		

Parking Off Site

Off site employee parking needs are estimated at 120-130 spaces. These off site parking needs are currently anticipated to be provided in the Jordanelle Village Area as described on our letter of April 11, 2006. Most employees will be expected to park off site. During the smaller employee shifts, the additional parking will be available for use as determined by the hotel operator. In addition to the offsite employee parking to be provided for employee needs, current plans are to provide approximately 300 multi use parking to be shared between day skiers, residents and special event needs.

Shuttle Services

During busy days, shuttles will be operated regularly to transport employees and guests from offsite parking areas to the hotel. Shuttles will also be available to move people between Snow Park and Roosevelt Gap. On less busy days, the shuttle schedule will be dependent upon demand, as determined by Hotel Management.

Parking Enforcement

Peak parking uses within the Snow Park and Roosevelt Gap buildings will be controlled by hotel operations by the use of valet parking. The parking structures at both buildings will be controlled by automatic gates. The residence owners will have access to the garage because they will have assigned parking stalls. All other access to the parking garage will be controlled through the valet service.

Updated Traffic Study

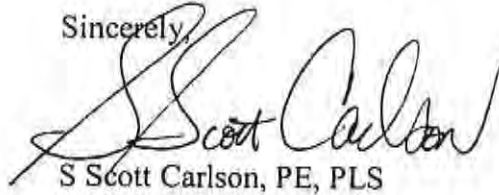
As mentioned previously, Deer Crest is in the process of obtaining an updated traffic study to address current development conditions. This study is expected to compare current projections with previous studies and to discuss the reasons for any modifications. The study will provide more details on peak parking demand, employee parking in general and at Jordanelle, special event parking, and parking enforcement within the parking structure

Deer Crest Parking Plan
DC Hotel CUP Condition 16
May 15, 2006
Page 3 of 3

consistent with the requirements of the CUP Condition #16. This study will provide the foundation for the ongoing parking plan.

If you have any further questions, please contact either me or Tom Ellison. Tom can be reached at (801) 578-6957. Thank you for your attention to this matter.

Sincerely,



S Scott Carlson, PE, PLS
Twin Peaks, P.C.

cc: Greg Perry
Tom Ellison
Mark Taylor
Lynda Fetter
Peter Pillman



May 23, 2005

Mark Taylor
Deer Crest Associates I, L.C.
PO Box 4151
Park City, UT 84060

NOTICE OF PLANNING COMMISSION ACTION

Project Description: Amended Conditional Use Permit for Deer Crest Hotel at Snow Park and Roosevelt Gap parcels of the Deer Crest Properties MPD, known as the Deer Crest Hotel CUP (St. Regis Resort at Deer Crest)

Project Address: 2300 Deer Valley Drive

Date of Action: May 11, 2005

Action Taken by Planning Commission: The Planning Commission approved the amended Deer Crest Hotel CUP, in accordance with the Conditions of Approval as stated below:

Conditions of Approval

1. All standard project conditions shall apply (Exhibit A).
2. All conditions of approval of the 1995 Deer Crest Settlement Agreement, as amended, continue to apply.
3. No certificates of occupancy for the Deer Crest Hotel shall be issued until the funicular is fully operational and the parking structure at the Snow Park site is complete and approved for occupancy.
4. A final exterior lighting and landscaping plan shall be submitted to and approved by the Planning Department prior to issuance of any full building permits. All exterior lighting shall conform to requirements of the City's lighting ordinance and shall be subdued in nature.
5. The applicant shall submit architectural details and materials to the Planning Commission for review and approval prior to the issuance of full building permits. Those materials reviewed and approved by the Planning Commission shall constitute exhibits as part of this conditional use approval.
6. A detailed review against specific requirements of the Uniform Building and Fire Codes is a condition precedent to issuance of a building permit. As a condition precedent to the issuance of

any building permits, the developer shall provide the Chief Building Official with information regarding all existing mine shafts that could complicate foundation construction.

7. A Construction Mitigation Plan (CMP) submitted to and approved by the Planning, Building, and Engineering Departments is required prior to issuance of any building permit. The CMP shall address construction phasing, staging, storage, circulation, parking, delivery, re-vegetation of disturbed areas, temporary signs and lighting, dust, mud, and dirt, and clean water standards if applicable. The CMP shall also call for disposal of all excavated materials to be on Deer Crest property hauled via the shortest feasible route. A limit of disturbance plan shall be submitted as part of the CMP. The CMP shall address maintenance or rerouting of existing pedestrian and trail access during construction. The CMP shall include a detailed phasing plan and an interim-landscaping plan, as necessary to re-vegetate and landscape disturbed areas.

8. A financial guarantee, in a form and amount acceptable to the City, for the value of all public improvements, pedestrian amenities and trails, and landscaping (including all landscaping required to re-vegetate and re-landscape all roads, utility installations and trails) to be completed according to the final approved plans shall be provided to the City prior to building permit issuance. All public improvements shall be completed according to City standards and accepted by the City Council prior to release of this guarantee.

9. A final record of survey plat must be submitted to the City for review and approval by the City Council and must be recorded at the County prior to closing on any sale of individual condominium unit. The record of survey plat shall address compliance with the ADA, including the potential for all ADA compliant units to be indicated on the record of survey plat as common space in perpetuity. Conditions, Covenants, and Restrictions for this development shall be submitted to the City Attorney for review and approval and shall be recorded at the time of record of survey plat recording.

10. A final subdivision plat (currently in the process of being recorded at Summit and Wasatch Counties) must be reviewed and approved by the Planning Commission and City Council and recorded prior to issuance of a footing and foundation permit.

11. Any change in the access location at the Snow Park site may require additional easements and agreements with the adjacent property owners. These easements shall be in place prior to issuance of any building permits for the relocated access drive.

12. All signs for this project shall comply with the Park City sign code. All signs shall be on-premise. Each sign requires a sign permit, reviewed and approved by the Planning and Building Departments prior to installation. The Planning Director prior to the issuance of individual sign permits shall approve a master sign plan.

13. The City Engineer shall review and approve all associated access, utility, public improvements, grading, and drainage plans for compliance with City standards as a condition precedent to building permit issuance and subdivision plat recordation. The final utility plans shall be consistent with the preliminary utility plan on file with the City.

14. The Snyderville Basin Sewer Improvement District's review and approval of the sewer plans is a condition precedent to final plat recording and building permit issuance.

15. The Jordanelle Special Service District's review and approval of sewer plans and water plans for the Roosevelt Gap site and an inter-local agreement for water service, as necessary for the Snow Park Site is a condition precedent to final plat recording and building permit

issuance. Prior to building permit issuance the applicants shall provide will serve letters from both the Snyderville Basin Sewer District and the Jordanelle Special Service District. As a condition precedent to the issuance of any building permit for the Deer Crest Hotel CUP the State Engineer shall sign off on any water transfer requests, if required. If necessary, the Snow Park site shall be formally de-annexed from the Park City water district by the applicant. If the City agrees to provide water service, in whole or in part to the Snow Park site, all water issues related to that service, including water capacity, pressure, fire flows, utility easements, etc. shall be resolved prior to issuance of any building permits or plat recordation.

16. The final parking plan will be reviewed and approved by the Planning Department prior to issuance of any foundation building permits and shall be consistent with the traffic and parking study approved by the Planning Commission on February 28, 2001 and March 124, 2004. The parking plan shall provide details on peak parking demand, employee parking in general and at Jordanelle, special event parking, and parking enforcement within the parking structure.

17. A shuttle system shall be in place and operational prior to issuance of any certificates of occupancy for the hotel. The shuttle system is a condition of approval and the Conditional Use Permit shall be considered void if the shuttle system is terminated unless alternative transportation and parking plans are reviewed and approved by the Planning Commission as an amendment to the CUP.

18. A one-year review of the parking and traffic situation, one year after certificates of occupancy are issued for the hotel, shall be conducted by the staff and presented to the Planning Commission. Modifications to the parking and/or traffic plan may result from the review. Further annual reviews may be required. In addition, any change of unit configuration or form of ownership which increases parking demands or traffic, beyond that considered in the December 12, 2000, Sear-Brown traffic and parking study, and amended with the March 10, 2004 plans, shall require subsequent Planning Commission review and approval.

19. Final location and dimensions of all trails must be delineated in their approximate locations on the final plat with guarantees for completion in place prior to granting any building permits for construction.

20. Final approval regarding snow shedding from roofs and porches will be granted after the Chief Building Official reviews the final architectural and structural plans and finds them in compliance with the City's snow shedding requirements. Final approval for the funicular will be granted only after the Chief Building Official reviews the plans for compliance with all applicable Building Codes.

21. The Deer Crest affordable housing plan, approved by the Planning Commission on December 21, 2001, shall remain in full force and effect unless amended and approved by the Planning Commission. No certificates of occupancy shall be issued for this Deer Crest Hotel CUP until all affordable housing obligations (10% of the approved u.e.'s) have been satisfied for each phase, ie. in-lieu fees paid and any built units certified for occupancy. Phase I in the approved affordable housing plan shall mean the Roosevelt Gap site and Phase II shall mean the Snow Park site.

22. All retaining walls shall be pedestrian in scale and consistent with the Park City Design Guidelines. Retaining walls should be compatible in form, scale, and materials with the architectural details and materials of nearby buildings. Stepping of retaining walls and landscaping shall be incorporated into the design.

23. All mechanical equipment and vents shall be screened for both visible and audible impacts.

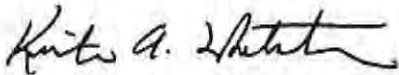
24. All loading and unloading delivery areas shall be screened from view of adjacent property and public right-of-way. Detailed plans shall be reviewed and approved by the Planning, Engineering, and Building Departments prior to issuance of building permits.

25. A phasing plan shall be reviewed by the City prior to the issuance of a footing and foundation permit to ensure that any phase constructed stands on its own in terms of architecture, design, utilities, trails and circulation, landscaping, parking, and access and is consistent with the approved CUP, in the interim of construction of the remaining phases. The phasing plan shall address maintaining public access to the trail system during construction, subject to the Chief Building Official's approval and closures due to health, safety, and welfare.

26. At the time of building permit submittal, the plans shall include a landscape and irrigation plan detailing the landscape, or other temporary finish treatment of the top of the north parking structure, to be approved by the City prior to issuance of a building permit.

If you have any questions or concerns, please do not hesitate to call me at 435-615-5066.

Sincerely,

A handwritten signature in black ink, appearing to read "Kirsten A. Whetstone". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kirsten Whetstone, AICP
Senior Planner
Cc. file



Ordinance No. 98-53

**AN ORDINANCE ANNEXING APPROXIMATELY
253 ACRES OF THE DEER CREST PROPERTY
LOCATED ADJACENT TO DEER VALLEY
INTO THE CORPORATE LIMITS OF PARK CITY, UTAH**

WHEREAS, a petition was filed by Deer Crest LLC requesting Park City to annex a portion of the Deer Crest Project (the Property, Exhibit A) to the City on July 10, 1998;

WHEREAS, the petition was determined to be complete upon receipt of the required fiscal impact analysis on August 21, 1998;

WHEREAS, the petition is generally consistent with the 1995 Settlement Agreement which applies to the property;

WHEREAS, the Planning Commission conducted a public hearing on August 26, 1998 and forwarded a positive recommendation on the requested annexation on September 23, 1998;

WHEREAS, the annexation petition was accepted by the City Council on September 24, 1998 and certified by the City Recorder on October 21, 1998;

WHEREAS, the City Council conducted a public hearing on December 3, 1998;

WHEREAS, the Property is not included within any other municipal jurisdiction and there have been no protests filed by any other jurisdictions;

WHEREAS, Park City and Wasatch County have negotiated the Deer Crest Interlocal Agreement relating to the Property;

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City as follows:

SECTION 1. ANNEXATION. The property is hereby annexed to the corporate limits of Park City, Utah according to the annexation and zoning plat executed in substantially the same form as it is attached hereto as Exhibit A. The Property so annexed shall enjoy the privileges of Park City and shall be subject to all City levies and assessments as described in the terms of the 1995 Settlement Agreement (as amended) and the Deer Crest Interlocal Agreement between Wasatch County and Park City. The Property shall be subject to all City laws, rules and regulations upon the effective date of this ordinance.

SECTION 2. COMPLIANCE WITH STATE LAW. This annexation, in the judgement of Park City, meets the standards for annexation set forth in Title 10, Chapter 2 of the Utah Code.

SECTION 3. GENERAL PLAN CONSISTENCY. This annexation is consistent with the Park City General Plan.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect upon recordation of the annexation plat.

DATED this 17th day of December, 1998

PARK CITY MUNICIPAL CORPORATION


BRADLEY A. OLCH, MAYOR

ATTEST:

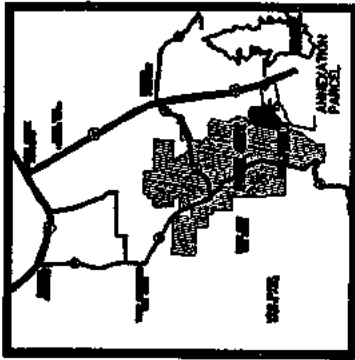

Jan Scott, City Recorder



APPROVED AS TO FORM:


Jodi Fatland Hoffman, City Attorney

WONITY MAP



THE JACK JOHNSON COMPANY
1900 Pennsylvania Avenue, N.W., Suite 1000
Washington, D.C. 20006
(202) 462-1000

THE JACK JOHNSON COMPANY
1900 Pennsylvania Avenue, N.W., Suite 1000
Washington, D.C. 20006
(202) 462-1000

ANNEXATION PLAT NO. 1
DEER CREST PROPERTIES
SITING EIGHTY EIGHT ACRES, CITY
LOCATED IN SECTION 14, 15, 16 AND 17 OF
TOWNSHIP 2 NORTH, RANGE 1 EAST,
SANDY BLISS AND MOUNTAIN

RECEIVED
DEC 11 1998
PARK CITY
PLANNING DEPT.

THE JACK
JOHNSON
COMPANY



1900 Pennsylvania Avenue, N.W., Suite 1000
Washington, D.C. 20006
(202) 462-1000

RECORDED

STATE OF _____
COUNTY OF _____
RECORDED AND FILED AT THE REQUEST OF:

COUNTY RECORDER

APPROVAL AS TO FORM

APPROVED AS TO FORM ON THE
DAY OF _____, 19____, A.D.

CITY ATTORNEY

CITY ENGINEER

APPROVED AND ACCEPTED BY THE
PARK CITY ENGINEERING DEPARTMENT
ON THIS DAY OF _____, A.D.

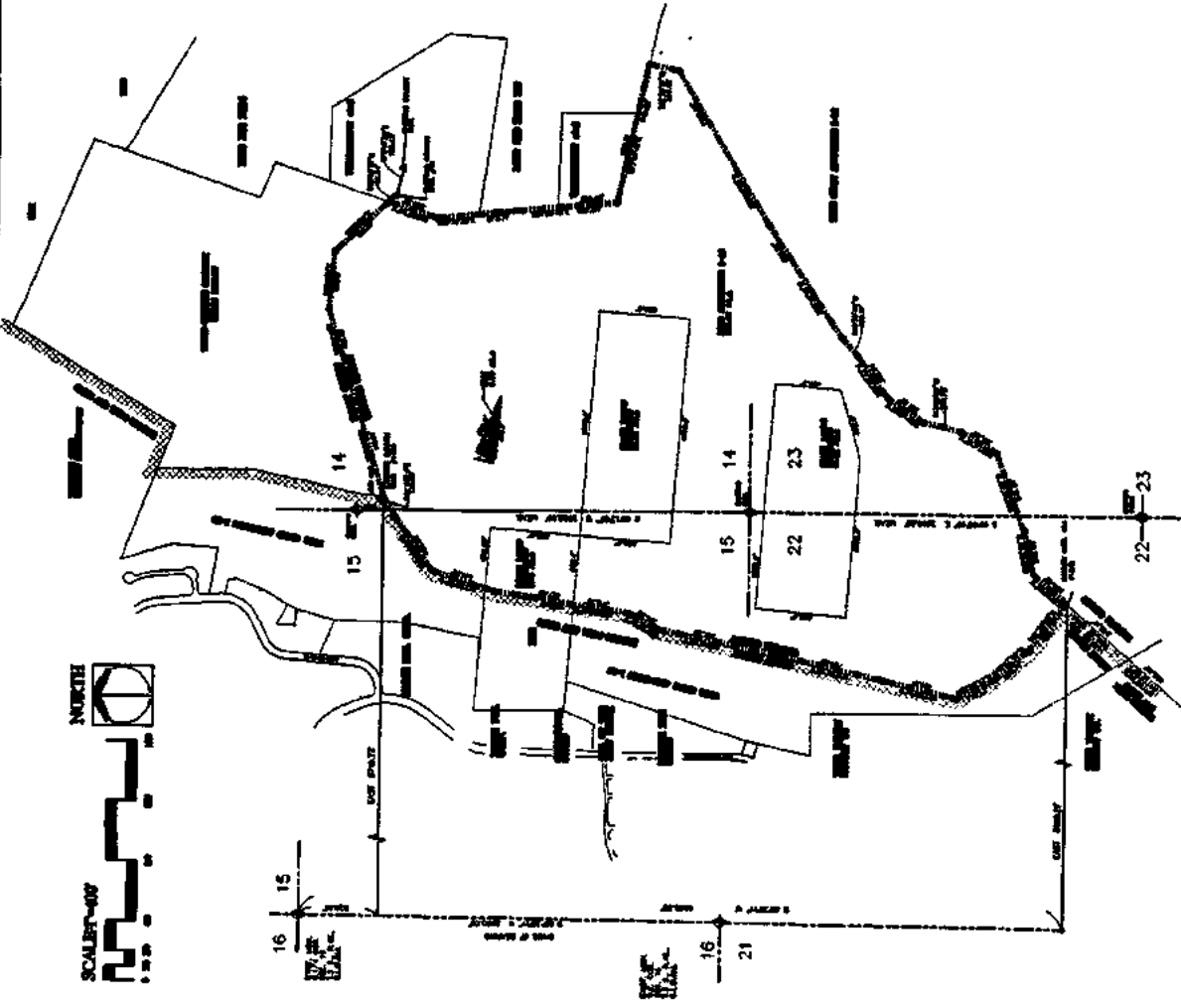
CITY ENGINEER

CITY COUNCIL APPROVAL

PRESENTED TO THE BOARD OF PARK CITY
COUNCIL THIS DAY OF _____, A.D., AT WHICH TIME THE ANNEXATION
PLAT WAS APPROVED.

MAJOR

CITY RECORDER





00548173 Bk01286 Pg01149-01151
9-24 CW
ALAN SPRIGGS, SUMMIT CO RECORDER
1999 SEP 09 09:26 AM FEE \$1.00 BY DMG
REQUEST: PARK CITY MUNICIPAL CORP

Ordinance No. 98-52

**AN ORDINANCE ANNEXING, APPROXIMATELY
84 ACRES OF PROPERTY KNOWN AS HIDDEN HOLLOW
LOCATED ADJACENT TO DEER VALLEY
INTO THE CORPORATE LIMITS OF PARK CITY, UTAH**

WHEREAS, a petition was filed by Hidden Hollow Associates, LLC requesting Park City to annex Hidden Hollow (the Property, Exhibit A) to the City on July 22, 1998;

WHEREAS, the annexation request is consistent with the 1995 Settlement Agreement which applies to the property;

WHEREAS, the property will be served with sewer and water by the Jordanelle Special Improvement District (JSSD) and all road maintenance will be the responsibility of the owners;

WHEREAS, the Planning Commission conducted a public hearing on August 26, 1998 and forwarded a positive recommendation on the requested annexation on September 23, 1998;

WHEREAS, the annexation petition was accepted by the City Council on September 24, 1998 and certified by the City Recorder on October 21, 1998;

WHEREAS, the City Council conducted a public hearing on December 3, 1998;

WHEREAS, the Property is not included within any other municipal jurisdiction and there have been no protests filed by any other jurisdictions;

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City as follows:

SECTION 1. ANNEXATION. The property is hereby annexed to the corporate limits of Park City, Utah according to the annexation plat executed in substantially the same form as it is attached hereto as Exhibit A. The Property so annexed shall enjoy the privileges of Park City and shall be subject to all City levies and assessments as described in the terms of the 1995 Settlement Agreement (as amended). The Property shall be subject to all City laws, rules and regulations upon the effective date of this ordinance.

SECTION 2. COMPLIANCE WITH STATE LAW. This annexation, in the judgement of Park City, meets the standards for annexation set forth in Title 10, Chapter 2 of the Utah Code.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect upon recordation of the annexation plat.

DATED this 17th day of December, 1998

PARK CITY MUNICIPAL CORPORATION


BRADLEY A. OLCH, MAYOR

ATTEST:

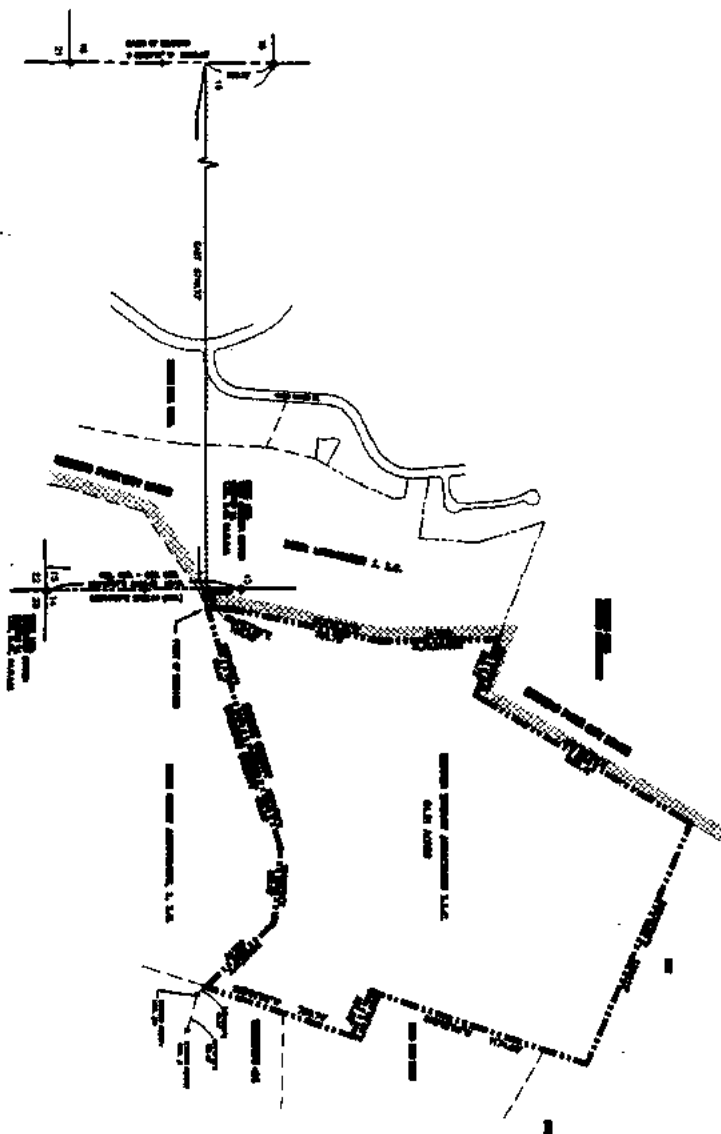

Janet M. Scott, City Recorder



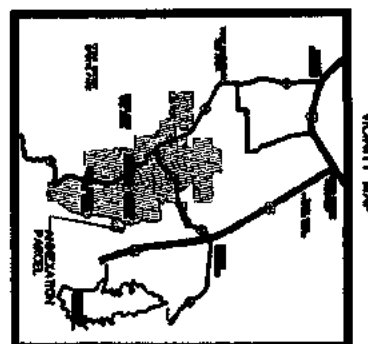
APPROVED AS TO FORM:


Jodi Fatland Hoffman, City Attorney

00548173 Bk01286 Pg01150



00548 173 Bk01286 Pg01151

[illegible]

ANNOUNCED THAT AT PARK CITY
 HIDDEN HOLLOW TRAINING DEPT.
 LISTED OTHER SOURCE AS: "A
 LOCATED IN THE PAST YEAR OF SEARCHING BY
 THOMAS J. MOORE, ALBERT J. EAST,
 SALT LAKE BASIN AND BERNARD

RECEIVED

DEC 11 1998

CITY COUNCIL APPROVAL

CITY ENGINEER

CITY PLANNING COMMISSION

APPROVAL AS TO FOREIGN

RECORDED

A.D. 19— AT WHICH TIME THE
RECORD OF SURVEY WAS APPROVED.

NOT ON THIS DAY OF _____
A.D. 19__

DAY OF _____, A.D., 19__

1

COUNTY OF _____,
RECORDED AND FILED AT THE REQUEST OF:



THE JACK
JOHNSON
COMPANY



Ordinance No. 98-51

**AN ORDINANCE AMENDING THE ZONING MAP OF PARK CITY
TO INCLUDE THE DEER CREST ANNEXATION AREAS
LOCATED ADJACENT TO THE CURRENT CORPORATE BOUNDARIES
OF PARK CITY, UTAH**

WHEREAS, Deer Crest LLC petitioned to annex a portion of the Deer Crest project to the City; and

WHEREAS, the annexation is consistent with the 1995 Settlement Agreement between Park City and the property owners; and

WHEREAS, the Planning Commission held a public hearing on August 26, 1998 and forwarded a positive recommendation to the City Council on the Annexation and Zoning on September 23, 1998; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code and Utah State Law; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, on December 3, 1998, the City Council held a public hearing to receive input on the proposed annexation and zoning; and

WHEREAS, it is in the best interest of Park City, Utah to amend the Official Zoning Map of Park City to include the property within the City's regulatory boundary.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. Zoning Map Amended. The Zoning Map of Park City as adopted by section 1.9 of the Park City Land Management Code, is hereby amended to include the annexed portions of the Deer Crest project as depicted in Exhibit A.

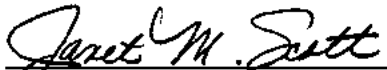
SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon recordation of the annexation plat.

PASSED AND ADOPTED this 17th day of December 1998.

PARK CITY MUNICIPAL CORPORATION


Bradley A. Orr, MAYOR

ATTEST:

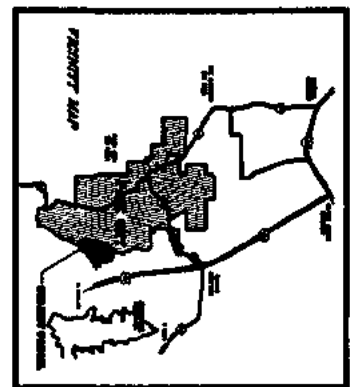
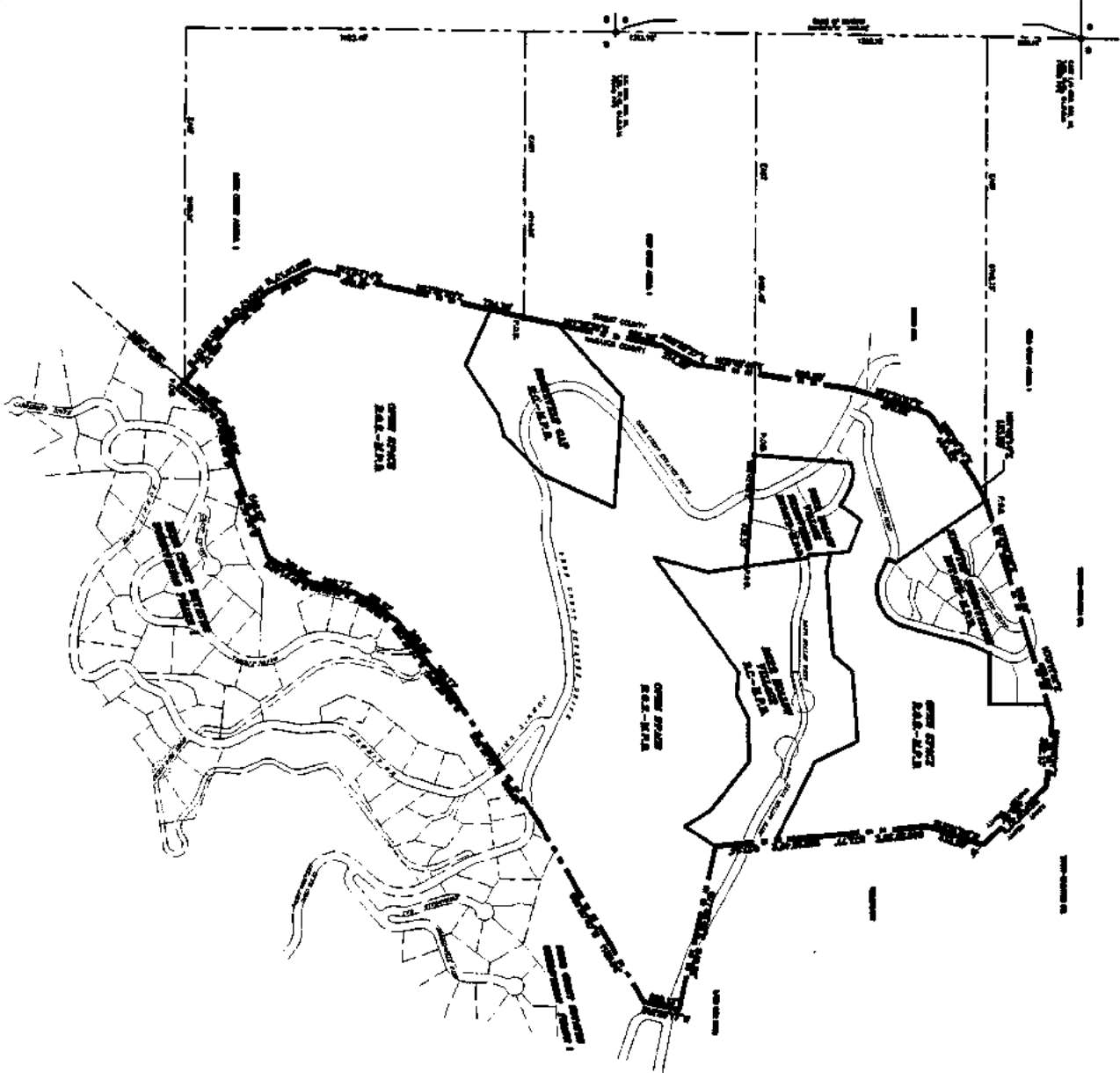

Janet M. Scott, City Recorder

APPROVED AS TO FORM:


Jodi F. Hoffman



EXHIBIT A



GENERAL NOTES:

1. The map is a plan view of the land and does not show topography or elevation.

2. The map is a plan view of the land and does not show topography or elevation.

3. The map is a plan view of the land and does not show topography or elevation.

4. The map is a plan view of the land and does not show topography or elevation.

5. The map is a plan view of the land and does not show topography or elevation.

6. The map is a plan view of the land and does not show topography or elevation.

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8. The map is a plan view of the land and does not show topography or elevation.

9. The map is a plan view of the land and does not show topography or elevation.

10. The map is a plan view of the land and does not show topography or elevation.



LEGEND:

1. - ZONING EXHIBIT MAP

2. - ZONING EXHIBIT MAP

3. - ZONING EXHIBIT MAP

4. - ZONING EXHIBIT MAP

5. - ZONING EXHIBIT MAP

6. - ZONING EXHIBIT MAP

7. - ZONING EXHIBIT MAP

8. - ZONING EXHIBIT MAP

9. - ZONING EXHIBIT MAP

10. - ZONING EXHIBIT MAP

PARK CITY
DEER CREST PROPERTIES
 ZONING EXHIBIT MAP
 LOCATED IN SECTION 14, T4N, R1E, AND 15, T4N, R1E, OF
 TOWNSHIP 4 NORTH, RANGE 1 EAST,
 SALT LAKE BASIN AND MOUNTAIN

RECEIVED

DEC 11 1998

PARK CITY
 PLANNING DEPT.

DEER CREST - PARK CITY
ZONING EXHIBIT MAP

Planning Commission Packet (Deer Crest) 12/14/98

1. - ZONING EXHIBIT MAP
 2. - ZONING EXHIBIT MAP
 3. - ZONING EXHIBIT MAP
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 9. - ZONING EXHIBIT MAP
 10. - ZONING EXHIBIT MAP

THE JACK JOHNSON COMPANY
 1777 East 1000 North • Salt Lake City, UT 84143
 (801) 466-2000 • Fax: (801) 466-2001



Ordinance No. 98-50

**AN ORDINANCE AMENDING THE ZONING MAP OF PARK CITY
TO INCLUDE HIDDEN HOLLOW
LOCATED ADJACENT TO THE CURRENT CORPORATE BOUNDARIES
OF PARK CITY, UTAH**

WHEREAS, Hidden Hollow Associates, LLC petitioned to annex a project to the City; and

WHEREAS, the annexation is consistent with the 1995 Settlement Agreement between Park City and the property owners; and

WHEREAS, the Planning Commission held a public hearing on August 26, 1998 and forwarded a positive recommendation to the City Council on the Annexation and Zoning on September 23, 1998; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code and Utah State Law; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, on December 3, 1998, the City Council held a public hearing to receive input on the proposed annexation and zoning; and

WHEREAS, it is in the best interest of Park City, Utah to amend the Official Zoning Map of Park City to include the property within the City's regulatory boundary.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. Zoning Map Amended. The Zoning Map of Park City as adopted by section 1.9 of the Park City Land Management Code, is hereby amended to include Hidden Hollow as depicted in Exhibit A.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon recordation of the annexation plat.

PASSED AND ADOPTED this 17th day of December 1998 .

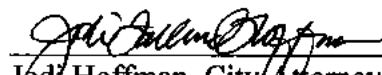
PARK CITY MUNICIPAL CORPORATION


Bradley A. Olson, MAYOR

ATTEST:


Janet M. Scott, City Recorder

APPROVED AS TO FORM:


Jodi Hoffman, City Attorney



