

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
FEBRUARY 12, 2020

COMMISSIONERS IN ATTENDANCE:

Chair John Phillips, Sarah Hall, John Kenworthy, Mark Sletten, Laura Suesser, Doug Thimm

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

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ROLL CALL

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

APPROVAL OF MINUTES

January 22, 2020

MOTION: Commissioner Suesser Thimm moved to APPROVE the Minutes of January 22, 2020 as written. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There were no comments

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Erickson reported that as of this time there would not be a special work session in March to discuss LMC Amendments. The Staff had cleared the February 26th agenda to devote the entire meeting to the LMC work session. The results of the work session discussion would come back to the Planning Commission on March 26th. Director Erickson suggested that any item that is continued this evening should be not be continued to the February 26th meeting in order to protect that agenda specifically for the LMC.

Director Erickson noted that Planner Ward had compiled a list of the LMC items to be discussed going back to when Steve Joyce was on the Planning Commission. She was trying to draft a calendar for when each item would be discussed. The Planning Commission would have the opportunity to reorder the calendar or add additional items on February 26th. If the Commissioners had additional input, they should contact Planner Ward prior to the February 26th Staff report.

Commissioner Kenworthy disclosed that he and Mike Sweeney sit on the HPCA Board together; however, their relationship on the Board would not affect his decision this evening.

Commissioner Hall disclosed that she would not be at the February 26th meeting; however, she has met with Planner Ward regarding the LMC Amendments and provided her input.

WORK SESSION

5000 Royal Street – Work Session Discussion of a 15-Lot Subdivision located in the Deer Valley Master Planned Development. (Application PL-19-04374)

Director Erickson announced that the Planning Department was trying a new procedure of bringing projects to the Planning Commission in work session format for the opportunity to provide feedback earlier in the process rather than later.

Planner Alexandra Ananth introduced Rory Murphy and Michael Demkowicz, representing the applicant.

Planner Ananth stated that the project is located at 5000 Royal Street. The proposal is for a 15-Lot subdivision on a 40-acre site. The site is located between Marsac Avenue and Royal Street southeast of the runaway truck ramp. The site is zoned Residential Development, and it is also within the Deer Valley MPD. The lot has an existing single-family dwelling on the site, as well as two accessory buildings, a large garage, and a carriage house. The adjacent subdivisions include American Flag to the north, and Belle Terre to the east of the property. The property is heavily wooded.

Planner Ananth reported that the Deer Valley MPD was originally approved in September 1977, and it has been Amended and Restated 12 times. The 12th Amendment was approved in November 2016. Planner Ananth stated that among other things, the Deer Valley MPD authorizes density within the Deer Valley area.

Planner Ananth stated that in May 1982 the property was approved by the Planning Commission for a 34-lot subdivision known as the Westview subdivision, which was recorded and platted. A road was subsequently graded in but no further improvements were installed. The property was purchased by the Huntsman family in 1987 and the Planning Commission approved the vacation of the 1982 Westview subdivision plat, as well as a 15-unit conceptual MPD, which continues to be known as the Westview MPD.

Planner Ananth remarked that the proposed Huntsman Estate Subdivision creates 15 lots of record from the 40-acre site. The proposed lots are located on the flattest portion of the site for the most part in order to minimize grade changes. Single-family dwellings are allowed uses within the District. All the proposed lots meet the requirements of the Residential Development District, as well as the Deer Valley MPD. Planner Ananth noted that the lot shown in green is proposed as common area for the sites surrounded by the 15 lots. The existing Huntsman House on Lot 12, which was outlined in blue, would remain. As discussed in the Staff report, the applicant has reserved two lots within the Subdivision should they choose to pursue and be approved for a transfer of density from an adjacent parcel into the subject property. Planner Ananth clarified that Lot 12 was approximately 23 acres as currently proposed. However, it could be reduced to 21 acres in order to make room for two additional lots.

Planner Ananth outlined the issues for discussion this evening, which included 1) potential limits on maximum house size; 2) appropriate vantage points; 3) limits of disturbance and tree removal; 4) traffic study; 5) other guidelines for development; 6) conditions of approval; and 7) the adjacent parcel. Planner Ananth stated that the purpose of this work session was to get early feedback on these key issues.

Planner Ananth presented a slide that was also an exhibit in the Staff report which talks about the average lot and house sizes in the neighborhood. The average lot size is just under an acre, which is primarily based on the Belle Terre and the Flagstaff subdivision. The average Huntsman sized lot, excluding the large Lot 12, is just over an acre, which is very comparable to the surrounding lot sizes. The average neighborhood house size is approximately 7,000 square feet.

Planner Ananth reported that the Deer Valley MPD and the Land Management Code do not limit maximum house size or footprint. It primarily addresses setbacks and height. A question for discussion is whether the Planning Commission is interested in setting a maximum house size restriction on this subdivision.

Planner Ananth stated that the Sensitive Lands Overlay zone requires a visual assessment of the property from nine typical vantage points. This development site is

not located in the SLO zone; however, the Planning Department anticipates that some type of visual analysis will be required. She asked the Planning Commission for their thoughts on the most appropriate vantage points.

Planner Ananth noted that health forests are important for filtering water and air, and in minimizing wildfires and invasive species, and providing for wildlife habitat. The Planning Department requested that the applicant provide a report from a certified arborist evaluating the health of significant vegetation on the site, and to make recommendations for tree removal and the siting of houses and driveways, with consideration for wildfire prevention, and preservation of significant vegetation, as well as the visual impact of this development.

Planner Ananth stated that the Planning Department believes the 15-lot subdivision will have a fairly insignificant impact on traffic. The applicant was an on-call van service that would reduce traffic and transport owners to the Silver Lake area, as well as the Main Street Core. Planner Ananth noted that the 15 units of density were contemplated in the Deer Valley MPD; however, she asked the Planning Commission to discuss whether or not a traffic study is warranted.

Planner Ananth asked the Planning Commission to identify other areas of concern they would like to discuss. She had a working list of conditions of approval. If the Commissioners had specific conditions of approval, she would add them to the list for consideration.

Planner Ananth stated that adjacent to the subject property to the west is a 19-acre parcel that is also owned by the Huntsman family, but it is located outside of the Deer Valley MPD. The parcel is zoned Estate, which requires a minimum of 3-acres per unit. Planner Ananth reported that the applicant was interested in bringing this parcel into the Deer Valley MPD so they can transfer density from this parcel into the proposed Huntsman Estates. Those two lots were designated on the plat and hatched in blue. The Planning Department believed this might be worth pursuing in exchange for a conservation easement to keep this heavily wooded and very visible site from being developed in the future.

Planner Ananth remarked that the Huntsman parcel is located within the Sensitive Lands Overlay Zone and contains trails used by the public, as well as wildlife habitat. The parcel is also steeply sloped. Due to its location in the SLO zone, the Planning Commission can consider a transfer of up to 25% of the density of this site to developable land. However, the applicant needs to submit a sensitive lands analysis for a site suitability determination. The applicant had not yet done that analysis;

therefore, the Planning Department was not able to confirm the amount of density that may be transferred. However, it is anticipated that this parcel would qualify as a steep slope and that the density transfer section of the ordinance may apply.

Planner Ananth stated that the applicant believes that if allowed, they may be able to transfer up to two units of density to the adjacent Huntsman Estates project. In exchange for this density, the applicant has stated that they would be willing to donate a conservation easement to the City on this 19-acre parcel, so the site remains undeveloped in perpetuity. The Staff would like the Planning Commission to discuss this issue this evening to give the applicant a sense of whether it is worth pursuing.

Planner Ananth noted that a number of existing hiking trails recognized on public trails maps run through the subject property linking Deer Valley and the Main Street core. She stated that the City currently does not have easements on these trails; but would like to either acquire a blanket easement to maintain and improve these trails as necessary, or to own the adjacent parcel outright. The Planning Department was recommending a condition of approval that these trails be deeded to the City via a blanket easement so they can be properly maintained. Planner Ananth pointed out that if only an easement is donated, this parcel may still be developable. In exchange for the ability to transfer some density into the Deer Valley MPD, the applicant may wish to consider donating this land to the City as open space.

Planner Ananth remarked that a number of items still need to be submitted before this project can come back to the Planning Commission, including a visual assessment of the project, a certified arborist report, and projected open space calculations. The applicant also needs to decide whether or not to pursue the SLO analysis.

Rory Murphy, representing the applicant, echoed the points in Planner Ananth's presentation. Mr. Murphy stated that the owner is Deer Valley LLC, which is the Huntsman family. He clarified that he was only acting as an advisor on this property.

Mr. Murphy reviewed the proposed plat, which was still preliminary, showing the building envelopes. He noted that the applicant has been working on the visual analysis and they intend to submit a package with all the other requested items later in the week. Mr. Murphy stated that the parcel under the subdivision was the parcel in question as to whether the Planning Commission was interested in considering some type of density transfer.

Mr. Murphy stated that this property cannot be seen from any of the vantage points called out in the SLO. The applicant put in the simulation from the top of Main Street

and from the Marsac parking lot and the property is not visible from either of those vantage points and it would not be visible at full buildout. The slide showed part of the land that was in the separate 20-acre lot outside of the Deer Valley MPD.

Mr. Murphy presented a slope map and noted that they would be submitting the Sensitive Lands analysis very soon. He pointed out that there is one developable area on this land. Everything else is in excess of 40% slope and cannot be developed. Mr. Murphy remarked that the SLO Ordinance does allow for some development. Their calculations determined two lots if they agree to a conservation easement and pursue trails.

Mr. Murphy stated that lack of access was a question that was raised; however, the applicant does have access. When United Park City Mines sold the land to the Huntsman family, the Huntsman's insisted on an easement over the United Park City Mines parcel. The easement gives the applicant the ability to access the parcel and put in a driveway but they are choosing not to because it would be visually intrusive. Mr. Murphy remarked that this was the fate of the property if they could not figure out a density transfer.

Commissioner Suesser asked Mr. Murphy to point out the location of the easement and the United Park City Mines property in relation to the buildable area. Mr. Murphy pointed out where the easement runs parallel and stated that United Park City Mines also owns the Star parcel which is accessed from a trail head. Mr. Murphy emphasized that there is one developable spot on this land in lieu of some type of density exchange.

Mr. Murphy outlined the benefits, which included a conservation easement, protected open space, new public trails and access, wildlife habitat, vegetation protection, and site drainage benefits. They would also make a special point of preserving the trail.

Mr. Murphy stated that if the applicant strictly keeps with the 40-acre parcel they would be around 86% open space. If they add the 20-acre parcel, they would be over 90% open space. For this to move forward, Deer Valley would need to actively support it and be a willing participant in amending the MPD. The burden is on the applicant to work with Deer Valley to gain support. They have been speaking with Steve Issowitz at Deer Valley and he is open to the idea. Mr. Murphy stated that the arborist report should be completed by the end of the week. He believed the report would reflect conservation values. Mr. Murphy agreed that vegetation protection is critical because the site is heavily wooded. There was no mining activity in the past. Mr. Murphy was interested in hearing the discussion regarding house size. He noted that SBWRD has an easement through the property and they would like to eliminate an existing turn in

the sewer line. The applicant has been working on a line extension agreement with SBWRD. The Sewer District is very excited about the possibility of fixing the sewer line that comes through the property. Mr. Murphy was willing to do a traffic analysis if the Planning Commission thought it was relevant. He expected to submit the Sensitive Lands Analysis by the end of the week. Mr. Murphy stated that the applicant would be working with the City Fire Marshall and others on wildland fire protection because it needs to be balanced with keeping as much vegetation as possible. He remarked that the property is special and valued because of its beautiful forest. Mr. Murphy stated that the Staff came up with the idea of doing a macro report and adding a condition of approval that requires every lot to have a lot specific vegetation plan that identifies every tree on the lot. There would also need to be agreement with the Staff on which vegetation could be removed and what should remain.

Commissioner Hall asked if the on-call shuttle would be dedicated to the 15 homes; or whether it was part of an existing service. Mr. Murphy replied that currently they were working with a group that may incorporate their van service into this particular project. One of the outbuildings on the project is a van shuttle that the Huntsman's had on the property. Mr. Murphy did not have a definitive answer on how the shuttle service; however, he could guarantee that a van service would be in place.

Commissioner Suesser asked if there was an image of the proposed access to the subdivision from the road. Mr. Murphy stated that the proposed access was identical to the existing driveway. It was slightly moved in one spot further up to protect existing vegetation. He believed it would be apparent when they reach the point of having the Planning Commission visit the site.

Commissioner Kenworthy asked if this project was approved for nightly rentals. Planner Ananth answered yes.

Chair Phillips opened the public hearing.

Bob Dillon, a resident of American Flag and a Board Member, stated that Rick Barrus, the President of the American Flag HOA, was also present. Mr. Dillon clarified that his comments and questions were his alone and not on behalf of the HOA Board. He stated that the adjacent 19-acre parcel was SLO. The Deer Valley MPD expressly says that nothing in the MPD is subject to the SLO. Therefore, if the parcel is brought into the MPD, he would be against some of the changes in density that might occur. Mr. Dillon wanted to know what the conservation easement would permit or prohibit. For example, recreational open space would permit a gondola. He would not object to the pickle-ball and tennis courts as long as they do not have lights. Regarding house size,

Mr. Dillon noticed that the Staff compared it to Belle Terre rather than American Flag. He believed American Flag was smaller in size. Mr. Dillon remarked that the main concern was the 20-acre lot and he would like to see a restriction on house size. Under the MPD a hotel could be built with a CUP. He was unsure whether a non-condominiumized hotel would be one unit, but he would not want anything larger than a 22,000 square foot house on that one lot.

Chair Phillips asked Mr. Dillon if he was for or against a gondola through the conservation area. Mr. Dillon replied that he personally did not have an opinion one way or the other.

Mr. Dillon also wanted it clear that he was not concerned about the two additional lots coming over.

Pat Sweeney stated that he lives across Empire a little above this parcel. He liked the proposal and what the Huntsman's were doing with the property.

Melissa Band stated that she has been to this property many times and it has been listed several times over the years. The 22,000 square foot Huntsman home is a lovely home and this piece of property is very special with nice trails. Ms. Band thought it would be a great get for the City to take the conservation easement and give a little density where density already exists. Ms. Band assumed the homes would be second homeowners who are not there a lot. Van service to Silver Lake is a great way to mitigate another unsightly piece on a beautiful hillside.

Chair Phillips closed the public hearing.

Director Erickson noted that Planner Ananth chose to send a courtesy notice to 34 properties, the same noticing required if this item was schedule for action, to give the adjacent property owners the opportunity to comment this evening.

Commissioner Kenworthy asked Mr. Murphy what house size he would like. Mr. Murphy replied that the Planning Staff had concerns with the house size. It is not codified and the Planning Director has influence over the issue. He received the Staff Report on Friday but had not had yet met with the Huntsman's to talk about house size. Mr. Murphy was unprepared to answer the question at this time.

Chair Phillips was curious to know the largest possible outcome based on lot size and setbacks. He was also curious to see what will be proposed with the understanding that the Planning Commission will discuss what house sizes are suitable.

Commissioner Sletten asked if Mr. Murphy envisioned the applicant subdividing the lots and selling the lots to be built as custom homes; or whether the applicant would build the homes and then sell them. Mr. Murphy replied that the lots would be subdivided and sold. Commissioner Sletten assumed the design guidelines would be strict. Mr. Murphy anticipated that the design guidelines would be similar to Empire Pass or Deer Crest.

Chair Phillips suggested that they pay close attention to outdoor lighting because that is an issue that is easily overlooked.

The Planning Commission discussed the items for discussion listed in the Staff report.

Maximum House Size Limitations

Planner Ananth stated that the Planning Commission has been sensitive about house size in the past and she wanted to understand their thinking on this lot. Planner Ananth pulled up a slide that was also included in the Staff report as Exhibit E. The chart primarily compared the average lot and house sizes for the Belle Terre and the American Flag Lots adjacent to or near this site. Planner Ananth pointed out that the lots sizes are ranged, but the average lot size is just under an acre. She believed the average Huntsman lot size was very comparable at slightly over an acre, removing the large lot from the analysis.

Chair Phillips assumed that the American Flag and Belle Terre homes were built without a maximum house size but were a function of the lot. Planner Ananth stated that from her research, neither of those subdivisions have a maximum house size limit. She believed American Flag has a minimum house size of 2,000 square feet and limits on the length of a driveway. She also recalled that American Flag has more stringent setbacks than the LMC requirement.

Chair Phillips wanted to see an analysis showing the house size if this project was built the same as the other homes in the neighborhood. Planner Ananth stated that she and the developer would be doing that analysis. She noted that the limits of disturbance could also limit the house size. Planner Ananth thought they would be prepared to propose a preliminary number when this comes back to the Planning Commission.

Chair Phillips thought the arborist report might help create the building envelope for some of the lots in an effort to protect the higher priority trees. Protecting the ridgeline trees is one of his priorities.

Commissioner Thimm asked if the areas of disturbance will be described when this comes back to the Planning Commission for action for the Planning Commission to evaluate; or whether it would be a later consideration. Mr. Murphy stated that the house pads will be proposed. They will also provide the overall arborist plan, which will not talk about specific trees. He agreed with the Staff suggestion to come up with an overall plan initially and then make it very specific in the Development Agreement that every lot must submit a tree specific plan to the Planning Department when each individual lot is built.

Director Erickson noted that the Planning Commission typically see shifts in building pads when there is no architecture of a building. For this project, the strategy is to establish a clearly defined building size, vegetation plan, and wildland fire plan; and then adjust once they have good architecture. Director Erickson pointed out that minor modifications take up a lot of Staff and Planning Commission time because of policies that were established in the 1980. He was more concerned about the forest because many of the trees are mature and there are a lot of dead tops. Director Erickson anticipated that the arborist plan would include forest health amendments in addition to tree preservation. Director Erickson stated that the Staff was trying to be more progressive in doing these subdivisions.

Commissioner Hall thought it would be helpful to know the maximum allowable square footage for the entire property and/or lots. Commissioner Sletten clarified that it would exclude the existing house.

Chair Phillips remarked that if the house sizes are in line with surrounding development it would be easier to go with the proposed and not have special maximums. However, if the house sizes come in considerably larger through the matrix, the Planning Commission may decide to lower some of the house sizes to be more compatible with the neighborhood.

Commissioner Thimm asked if there was a maximum allowable in the underlying zone. Planner Ananth answered no. Commissioner Thimm pointed out that volume would ultimately limit house size.

Chair Phillips understood that the applicant was requesting a height exception of no more than 10% of the building; however, he was unsure from reading the Staff report whether the height was 33' or 28'. Planner Ananth explained that the height for the residential district was 28' with the 5' exception for slope roofs, dormers, etc. However, the Huntsman's specifically requested an exception for their family house to exceed the

height, and that was granted within the 1987 conceptual MPD. It was only granted for the house but not for the property in general. Chair Phillips understood that the new lots would be at the 28' height limit. Planner Ananth replied that he was correct.

Commissioner Thimm referred to page 27 of the Staff report and noted that the lot sizes range from .37 acres to 3.02 acres, excluding the large lot. In looking at the house size on median calculations, the result is approximately 1 acre with an average house size of approximately 7,000 square feet. Commissioner Thimm stated that his first thought would be in keeping with the area. If they round the numbers and say that the average size for an acre is 7,000 square feet, he suggested taking a ratio of the acreage and develop a square footage by multiplying that number by 7,000 square feet. Therefore, one acre would yield 7,000 square feet. A .37-acre lot would yield approximately 2600 square feet.

Commissioner Suesser supported that formula. She also supported setting a maximum house limit.

Commissioner Sletten liked the idea of a ratio. However, he not sure if he agreed with Commissioner Thimm's math because it might reduce the house on the smallest lot too far to support the pricing of the neighborhood.

Vantage Points and Visual Analysis

Chair Phillips suggested vantage points from the higher streets such as Woodside or Upper Norfolk. He also suggested vantage points from Rossi Hill such as the end of McHenry.

Commissioner Suesser liked the angle of the images from Main Street and Heber that was shown during the presentation. She found those to be helpful.

Chair Phillips asked about the other vantage points mentioned where the project is not visible. Planner Ananth clarified that the project site is not actually within the SLO and she only used those vantage points as reference. She thought it was more appropriate to use the sites that were selected. Chair Phillips agreed.

Commissioner Suesser wanted to see the project property from the Park City Ski Area. She asked if the property could be seen from the Montage looking down Empire. Neither Mr. Murphy nor Planner Ananth thought it could be seen from the Montage.

Traffic Study

Planner Ananth asked if the Planning Commission thought a traffic study was necessary for this project.

Chair Phillips and Commissioner Suesser did not believe it was necessary.

Commissioner Thimm stated that 17 homes would generate a limited number of trips per day and he did not think that was overly impactful. Commissioners Sletten and Kenworthy concurred. Chair Phillips noted that the van shuttle would also mitigate traffic impacts and that would be written as a condition of approval.

Commissioner Suesser asked if there was any thought of connecting to the ski resorts through a gondola or other means up to Deer Valley. Mr. Murphy replied that the gondola is the biggest concern he has heard expressed. He met with Steve Issowitz and there is no graceful way to include skiing. It would only work by cutting across American Flag, which the applicant is not willing to consider unless the City approaches the Huntsman family with that preference. Mr. Murphy pointed out that the economics of this project would not support a \$30 million gondola or even participation in a \$30 million gondola. In conversations with Steve Issowitz, Deer Valley does not believe there is the potential for an alignment. Mr. Issowitz was adamant that if there is an alignment, Deer Valley would never staff it because it is not in their best interest economically or logistically. Mr. Murphy emphasized that this project was not proposing any type of ski access.

Miscellaneous Issues

Planner Ananth asked if the Planning Commission had other items they wished to discuss or something the Planning Staff might have missed.

Commissioner Kenworthy thought it was worth the time and effort for the applicant to submit for the two additional lots. Chair Phillips concurred because it would help protect the lower portion. Commissioner Sletten agreed that preserving that area as open space would be significant.

Commissioner Thimm favored the advantage of those two lots, and he recalled that there were two choices; one was a dedicated conservation easement and the second was to deed the parcel to the City. His preference would be to have the entire parcel deeded over to the City.

Chair Phillips asked if the applicant had a preference. Mr. Murphy stated that it has been discussed and he did not believe the applicant had a preference. They primarily want to memorialize the trails.

Commissioner Suesser asked for clarification on whether they are existing unofficial trails on both the 19-acre parcel and on the Huntsman property. Planner Ananth pointed out the official existing trails; as well as informal trails that connect up through the Huntsman parcel. Director Erickson noted that there are dogs and a caretaker who vigorously defend the private property. There are existing trails on the Estate property and the City will request proper easements on those trails moving forward.

Director Erickson stated that he and Planner Ananth need to address process. The subdivision is inside the Deer Valley MPD. Separately there is the Estate Parcel that may either be deeded or a conservation easement placed on it. If the Planning Commission and/or the City Council want to transfer the density, the Planning Department needs to figure out a mechanism to do that. Director Erickson clarified that the applicant was proposing to leave those two potential lots part of the large lot, and then come back and replat for those two lots. He explained that the 15 lots would leave the two potential lots attached to the large lot, and the Planning Commission would see a preliminary plat that would show those lots. When there is replat, the Commissioners could go back and determine that those two lots are what was agreed to and approve the replat.

Commissioner Kenworthy asked besides the trails and the two lots whether there were other effects on the existing home and lot. Director Erickson replied that there were no other effects other than carving the two additional lots out of the larger lot. The existing home would remain with the height exception. Everything else would be consistent with the neighborhoods. Commissioner Kenworthy asked if they would be removing the ability to subdivide in the future. Director Erickson stated that the Planning Commission could decide whether to contemplate additional subdivision. The density on this site is limited by the Deer Valley Development Agreement; therefore, no additional development units are allocated to this parcel. Director Erickson assumed Deer Valley would not allow additional subdivision. That could be added as a condition of approval if the Planning Commission had a preference one way or the other.

Commissioner Sletten stated that in terms of a potential transfer of density, he could not imagine a UE available anywhere in Deer Valley. City Attorney Harrington stated that for MPDs that have pods of density that are less than the underlying zoning, the way the State is moving towards administrative subdivisions he cautioned the Planning Commission about leaving themselves vulnerable to a future fight. He believed the

Commissioners would be see more Staff recommendations for affirmative limitations on further subdivision. Commissioner Sletten clarified that he agreed with the limitations. He was merely making the point that it would probably be difficult anyway.

Commissioner Kenworthy stated that he was also leaning in that direction. Commissioner Thimm supported limiting further subdivision.

Commissioner Thimm referred to public comment about the underlying zoning allowing other uses such as hospitality. Planner Ananth could not remember all of the allowed uses. She would do further research and include all of the allowed uses in the next Staff report. Director Erickson stated that the Deer Valley MPD does not allow commercial activities on this site. They would need to change the document and allocate unit equivalents in order to do that. If they were using the underlying RD zoning, a lodging or commercial activity would be a conditional use and it would come back to the Planning Commission. It is very similar on the Estate property. Commissioner Thimm suggested adding a condition of approval that limits the permitted uses to single-family dwellings and outbuildings.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

6.A. Land Management Code Amendment – Amend Land Management Code §15-7.1-7, Signatures and Recording of the Plat.

Planner Rebecca Ward stated that the State has a new requirement that requires the Staff to submit approved plats to the Utah Geographic Reference Center within 30 days of approval to be entered into the statewide 911 emergency database. Summit County will no longer record a plat unless the County Addressing Authority can verify that there are no duplicated roads or addresses.

Planner Ward noted that the changes have already been implemented; however, the Planning Department is getting questions from applicants regarding the new requirements. The Staff was proposing to add the new requirements to the LMC.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the proposed amendment to the LMC 15-7.1-7, Signatures and Recording of the Plat, for the City Council to consider on March 5, 2020 as outlined in the draft ordinance. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

6.B. Land Management Code Amendments – Regarding Historic Preservation in LMC 15-11-12.5 Historic Preservation Board Review for Material Deconstruction. (Application PL-20-04447)

Planner Caitlyn Barhorst stated that the proposed LMC Amendment would streamline the process for the review authorities at the Staff level versus the Historic Preservation Board.

The amendment would allow the Staff to review the lower level smaller scope of projects as defined by ordinary repairs and maintenance, repair or placement of historic architectural details, or removal or replacement of non-historic architectural details. Planner Barhorst stated that currently all these items are reviewed by the HPB in the HDDR process. The Staff was proposing to remove the review from the HPB to the Staff level. The Historic Preservation Board would still review the permanent removal of historic material on the site to accommodate new additions.

Planner Barhorst noted that the Staff reviewed the proposed amendment with the HPB and they forwarded a positive recommendation with clarifying changes to distinguish what would actually be reviewed at the Staff level.

Chair Phillips felt comfortable with the HPB recommendation since this was their purview.

Commissioner Kenworthy asked for a breakdown of the HPB vote. Planner Barhorst replied that it was unanimous to forward a positive recommendation.

Planner Tyler clarified that the Staff would do most of the work and the HPB would usually rubber stamp what they had done. The intent is to simplify the process. It is not worth the HPBs time to review replacing a vinyl window with a wood window. Planner Tyler remarked that in addition to simplifying the process for the Staff and the Board, it will also aid the public in getting through basic items that the Staff can address.

Director Erickson stated that this amendment was also part of the conversation with the CDD task force in trying to streamline some regulatory affairs.

Commissioner Suesser asked if there is an inspection after approval of these types of repairs. Planner Barhorst answered yes because a building permit is required. The applicant submits a Historic District Design Review pre-application. The Staff reviews it and writes a waiver letter for non-historic items. The applicant is also required to follow the Design Guidelines. Chair Phillips asked if the inspection is done by the Planning Department or the Building Department. Planner Barhorst replied that it is both. The Planning Department does the inspection for planning purposes and the Building Department inspects for building reasons.

Commissioner Suesser asked if there is an HPB inspection. Planner Barhorst stated that the Planning Staff does the inspection and provides a quarterly update or as necessary as projects come in for the next HPB meeting.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

Commissioner Hall asked if there is a requirement to reuse or recycle demolition material. Planner Tyler answered yes. It is a standard condition of approval. Currently, there is nothing in the Code that requires the reuse of materials, but the design guidelines encourage it.

Director Erickson noted that the Planning Department would be coming forward with a CDD recommendation on trying to reuse materials.

Commissioner Hall stated that she always favors streamlining when possible because rubber stamping is a waste of the Staff's time.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the Land Management Code Amendment to 15-11-12.5, Historic Preservation Board Review of Material Deconstruction, for the City Council to consider on February 27, 2020 as outlined in the draft ordinance. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

6.C. 445 King Road – Conditional Use Permit – the Applicant is Requesting a Conditional Use Permit for the Construction of a Single-Family Dwelling, Consistent with the Plat and Master Development Plan.

Planner Liz Jackson reviewed the conditional use permit application for a single-family dwelling called out as the main house on Plat Note 1, which is consistent with the plat for the site in the Sweeney Properties Master Plan. The structure will be in addition to the existing small house, which has been acting as the main house, but will now be considered a guest house.

Planner Jackson reported that last week, just prior to the Staff report being published, the applicant asked to submit new plans. The applicant has indicated that the plans will lower the height in select spots and further break up the massing. However, with the limited turnaround time and the plat specificity regarding footprint and height, which are proposed to be changed, the Staff and the applicant recommend that the Planning Commission open a public hearing this evening and continue this item to March 25th. A continuation will allow the Staff time to review the newly submitted plans in accordance with the plat and the Sweeney Properties Master Plan. Following their review, the Staff will update the Staff report and the Findings of Fact and Conditions of Approval for the March 25th meeting.

Planner Jackson stated that on quick review, the proposed changes appear in accordance with the plat and the SPMP, but the Staff would like to confirm that everything is in accordance and that the Findings and Conditions are consistent.

Planner Jackson noted that the applicants, Mike and Pat Sweeney, as well as the architect, Dave Richards, were present to answer questions.

Chair Phillips thought it would be helpful to have a brief discussion and provide input since the applicants and their architect were present.

Commissioner Thimm had read through the conditions of approval in the Staff report and he was in favor of all the conditions as written.

Commissioner Suesser asked for clarification on the future Phase 3 addition. Planner Jackson stated that the current proposal is what the applicant would like to do. The future phase addition is a potential addition. They will still have footprint to work with from the 3500 square feet and there is a possibility of wanting to fill in the rest of the

3500 square feet. Planner Jackson pointed out that Phase 3 was not part of the Planning Commission approval this evening. The house design needs to be reviewed through a CUP to mitigate any impacts. However, based on the size of the footprint for a potential future addition, the Staff felt that it could be approved administratively since most of the bulk and mass were proposed with this application.

Pat Sweeney stated that it was important to him to participate in setting the stage on that property forever. They have spoken with Director Erickson and Planner Jackson regarding making the home as intrusive as possible for Old Town, and also for Deer Valley. There was a great deal of thought in putting the house as far back as possible in the building area. They believe the plat as it stands is a good one. Mr. Sweeney commented on a loophole that could be used in the future and he intends to close that loophole. Wording on the plat that addresses the driveway would potentially allow someone in the future to go partway up the driveway and turn into the house. Mr. Sweeney believed that would expose two levels that would not otherwise be visible from the higher reaches of Old Town and Deer Valley. As part of this CUP approval, Mr. Sweeney wanted to enter into an agreement recorded with the City that would prohibit that from occurring. Mr. Sweeney stated that it would create a peninsula of earth and vegetation between the home and the end of McHenry Street, as well as American Flag. Mr. Sweeney remarked that 3,000 square feet of the house is basement, garage, and a shop. The rest of the rooms are bedrooms and facilities for his friends and family.

Pat Sweeney stated that Planner Jackson had done a great job with the Staff report and he thought it was quite thorough and complete. If the Commissioners had additional questions or input, he would like to hear their feedback so they can prepare for the next meeting.

Chair Phillips liked what was presented at this point and he the applicant had good intentions. He looked forward to seeing the updated information at the March meeting.

Director Erickson remarked that Planner Jackson had been working with the Wildland Urban Interface Fire Code for 18 months and she had benchmarked against this property. The Code works well for this particular property because the house is not visible and it meets the intent of the Wildland Fire Code.

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

Chair Phillips closed the public hearing.

MOTION: Commissioner Thimm moved to CONTINUE the Conditional Use Permit for 445 King Road to March 25, 2020. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

6.D. 802 Empire Avenue – Conditional Use Permit – the Applicant is Requesting to Construct a Shared Driveway Over the Platted Unbuilt City Right-of-Way.
(Application PL-19-04113)

6.E. 802 Empire Avenue – Subdivision – The Applicant is Requesting to Combine Multiple Parcels into a New Two (2) Lot Subdivision.
(Application PL-18-03949)

Planner Ananth introduced Martina Nelson from Park City Surveying; the applicant, Tom Peek, from Old Town Lands; and Jonathan DeGray, the project architect.

Planner Ananth remarked that the project is proposing to combine multiple vacant lots into a new two-lot subdivision and is simultaneously seeking a CUP for a shared driveway to access the two developable lots. The lots are steeply sloped from Empire Avenue down to Crescent Tram. The lots are vacant of any structures.

Planner Ananth provided additional background on the sites. She reported that 802 Empire consists of three lots; a portion of Lot 19 and all of Lot 20 and Lot 21. Over the years a number conveyances affected these lots. The City vacated a portion of Empire Avenue, which was shown in green, and this land was given to the adjacent property owner. Planner Ananth stated that that conveyance enlarged the surrounding lots. Following the vacation, a number of surveys used an incorrect point of beginning, which erroneously shifted some of the deeds in the area south. That area was outlined in blue. Planner Ananth stated that when Tom Peek purchased the land, Park City Surveying provided quit claim deeds to clean up these areas. Quit Claim Deed Area A, which was in the Crescent Tram right-of-way, was given to the City. Quit Claim Area C is the adjacent Treasure Hill parcel that the City now owns. The City Quit Claimed some land to the applicant that was intended to be owned by the applicant.

Planner Ananth presented a slide showing the proposed site plan, which were the two lots currently owned by Tom Peek and Old Town Lands. Another slide showed the CUP area. Planner Ananth explained that the applicant was proposing to go from the

802 Empire Avenue lot all the way to the edge of pavement in order to access these sites.

Planner Ananth stated that the two lots meet the lot and size requirements of the LMC. Both lots meet the minimum lot size for a single-family dwelling, but not for a duplex. The maximum density on the lots would be two single-family dwellings.

Planner Ananth reported that the applicant would need a CUP for access. There would likely be a Steep Slope Administrative CUP once these lots are further through the process for development, as well as applications to develop in the Historic District.

Planner Ananth noted that at the last meeting she presented a slide giving context to the neighborhood lot size. The average lot size is 3700 square feet. The median lot size is slightly lower at approximately 2800 square feet. Planner Ananth pointed out that the subject lots are slightly lower than the average, but still within the range of the surrounding lot sizes.

Planner Ananth recalled at question at the last meeting regarding potential staircases in the area. She spoke with the Trails and Open Space Coordinator and he clarified that the next prioritized staircase is the 6th Avenue staircase. She noted that money was set aside in the budget for that staircase. Planner Ananth pointed to a potential staircase that could link Crescent Tram up towards Empire Avenue. She overlaid that same potential staircase on an aerial to show that the 802 Empire Avenue parcel would not preclude any type of staircase on City-owned land immediately south of 802 Empire. Planner Ananth had also highlighted the 732 Crescent Tram parcel and noted that the two parcels do not connect. There is approximately 7-1/2 feet of space in between the parcels leaving the potential for a future staircase. Planner Ananth clarified that 732 Crescent Tram is also owned by Old Town Lands. Planner Ananth suggested adding a condition of approval that stating that the owners of 802 Empire would not fight a potential staircase adjacent to their property. She commented on the possibility of needing a minimal easement if there is any stairway encroachment. Planner Ananth believed that could be addressed in a condition of approval for this application if the applicant would agree. Mr. Peek was not opposed because a stairway would be positive for all the properties in that vicinity.

Martina Nelson with Park City Surveying gave a power point presentation. He also gave the Commissioners hard copies of her presentation with the slides numbered.

Ms. Nelson started with the plat amendment for 802 Empire. She noted that all of Old Town was compiled of two major plats; the Snyder's Addition and Park City Survey.

Those two plats come together at an angle point, which is also an important boundary line for a quit claim deed she would discuss later in her presentation. She noted that the subject property is within Snyder's Addition.

Ms. Nelson stated that in 1968 the City vacated a portion of Empire Avenue to the adjacent landowners. In most states, it is State law that when parts of a right-of-way is vacated it goes to the adjacent landowners. Ms. Nelson stated that in 1991 the parcel at 802 Empire was sold to Tom Peek with Old Town Lands LLC. She noted that moving forward there were various Scribner errors in the deeds. In 2019 those Scribner errors were corrected with the advice of the City Attorney and the City Planning Staff.

Ms. Nelson noted that Commissioner Suesser had raised a question at the last meeting regarding the Empire Right-of-Way. She indicated Empire Avenue shown in green. She stated that the best historical information comes from the old recorded plats, Snyder's Addition, the Park City Survey Plat, and the Bush and Gudgell City Monument Control Maps. Ms. Nelson explained that the Bush and Gudgell Monument Control Maps is a hand drawing rendition of these two plats as they fit together, and it has specific information that surveyors and the City uses for the center line of the rights-of-way.

Ms. Nelson noted that the red dash hatched area was the portion of Empire that was vacated. Ms. Nelson presented another slide showing the 802 Empire boundary as it exists today. The dash lines were the original Snyder's Addition lot lines.

Ms. Nelson showed before and after slides of the deeds that had corrected descriptions. She noted that the deeds were recorded but were incorrect, and they were eventually corrected by the Park City Survey, the City Attorney's Office, and Old Town Lands. Ms. Nelson presented an exhibit showing a 2:3 ratio. Old Town Lands gave two-thirds to the City and the City in turn quit claimed one-third of area to Old Town Lands.

Tom Peek, with Old Town Lands, indicated the piece that was quit claimed and noted that it was right in the middle of the Crescent Tram roadway. He explained that the original idea was to deal with that piece when they deal with the adjoining property that Old Town Lands also owns to accommodate access for a potential future stairway. Mr. Peek stated that the stairway is a positive aspect and Old Town Lands would like to see it happen because it is valuable to the properties on both sides.

Chair Phillips preferred to have that intent written as a condition of approval in case the property is sold and the new owners are not as willing to work with the City. Mr. Peek

agreed, noting that an application on the other property would be coming to the Planning Commission very soon.

Commissioner Suesser referred to the shift of the piece of property on Crescent Tram and that tail on the piece in red. She originally thought it had been taken care of but after Mr. Peek's comments she understood that was not. Ms. Nelson explained that handling that piece is more complicated and the City decided to address it with the 732 Crescent Tram project. Ms. Nelson clarified that the original intent was to shift it up. Commissioner Suesser asked if it was an error, or whether the property is owned by Old Town Lands. Ms. Nelson replied that there are two elements. One element is that the point of commencement to the point of beginning of the deed is incorrect because it was incorrect by 15'. The deeds that were recorded on the same day were incorrectly shifted south 15'. Ms. Nelson stated that the intent of the red parcel was to be shifted up, which would have eliminated the tail; but currently that tail piece has not been corrected.

Ms. Nelson showed a slide noting that the purple color was the boundary and the green color was the right-of-way. She presented a cleaned-up record of survey that was recorded on Monday of this week. Ms. Nelson noted that Sheet 2 showed the boundary on all the adjacent neighbors. Another slide showed the existing conditions.

Commissioner Suesser stated that there is a wonderful pedestrian access way to Main Street over that tail that goes between two homes and cuts across under the Town Lift. The access way is used regularly by everyone on that side of Old Town. She believed it was a critical pedestrian walkway. Ms. Nelson noted that Mr. Peek is adamant about maintaining an access easement through the 732 Crescent Tram parcel to maintain that access. Mr. Peak pointed out that the tail piece is owned by the City. It is actually an overlap over an easement that the City already owns along that. The Crescent Tram walkway is there with an easement on it, and the City owns over that easement. Ms. Nelson clarified that Old Town Lands owns an easement and the City owns an easement. The 732 Crescent Tram project will be more specific on how they plan to correct the problem. Ms. Nelson suggested that a preliminary work session for that project would be beneficial.

Ms. Nelson presented slides showing how the plat amendment fits with the CUP. She noted that the property could be accessed off of Crescent Tramway; however, that is quite dangerous and the City requested access off of Empire. Another slide showed the boundary and the CUP area in relation to each other. Another slide showed the plat with the two lots and the CUP. Ms. Nelson noted that the CUP goes to the edge of

asphalt. The shaded hatched areas were the actual roadways as built. Green shading underneath indicated the right-of-way.

Ms. Nelson presented four slides regarding the CUP. A red dashed line was the old platted center line of the Crescent Tram. Another slide showed a configuration with the driveways as built. There will be a snow storage easement within that driveway area.

Planner Ananth presented a slide with the Staff Findings for the subdivision.

Chair Phillips opened the public hearing on the subdivision.

Rick Kienzles stated that he is a homeowner at 808 Empire, adjacent to the subject property. Mr. Kienzles had general concerns that he wanted to express this evening. He noted that his attorney Nick, from Wrona and DuBois spoke on his behalf at the last meeting. Mr. Kienzles had a letter from Wrona and DuBois that he would submit to the Planning Commission at the end of comments.

Mr. Kienzles referred to an earlier project relating to the Huntsman property and that a courtesy notice was sent to the neighbors at the request of the Huntsman's. Noticing was at the heart of his concern for this project. Mr. Kienzles stated that even though he was not speaking for his neighbors, there have been communal conversations around specific issues. Mr. Kienzles remarked that the concerns revolve around complete and total transparency without the neighbors having to hire attorneys or spend time digging for information themselves. Mr. Kienzles stated that all the property owners in the neighborhood have a stake and should have a seat at the table with specific attention on what is being proposed and what is being discussed between the applicant and the City. Rules are rules and laws are laws. As long as everyone plays by the same set of rules and within those rules, there is no issue. Mr. Kienzles stated that the real concern is not necessarily 802 Empire; but as mentioned, Old Town Lands owns the adjacent property as well. The neighbors have not been provided an opportunity to see the overall plan. From his conversations with Mr. Peek he knows there is an overall plan and bits and pieces have been discussed with the Planning Staff. Mr. Kienzles stated that he and his neighbors believe that development of more density is not consistent with the City's stated goals of limiting development in the Historic District. He asked the Planning Commission to take that into consideration when considering this plan.

Mr. Kienzles had two letters from Wrona Dubois that he was asked to hand deliver. One was dated 2018 and he had made copies for the Commissioners. He did not have the opportunity to print a second letter that was written today. Mr. Kienzles would work with the Staff to provide that letter through the appropriate process. Mr. Kienzles noted

that the current letter references the letter from 2018. It was noted that copies could be made in the Planning Department and given to the Planning Commission this evening.

Commissioner Hall asked if all the owners had received the courtesy notice. Planner Ananth replied that property owners within 300 feet were noticed for both the January public hearing and again for tonight's meeting. Notice was also posted on the site. Planner Ananth stated that she also did her best to apprise the neighbors who provided feedback in January of this February meeting via email.

Commissioner Suesser asked if the neighbors were noticed that there would be a public hearing on the CUP and the Subdivision proposal. Planner Ananth answered yes. Commissioner Suesser asked if the neighbors were told when the Staff report would be available for their review. Planner Ananth replied that they were only given notice regarding the public hearing. It is a standard letter that follows the standard noticing process.

Commissioner Hall asked for clarification on why 802 Empire and 732 Crescent Tram were bifurcated. She understood that former Planner Astorga had originally looked at the two together. Ms. Nelson stated that it was coincidence that Old Town Lands owns both properties. They are not connected and were never anticipated to be connected because of the potential stairway. Ms. Nelson noted that 802 Empire lies within Snyder's Addition plat. The 732 Crescent Tram project lies under the old Park City plat. Both are two separate entities and have two separate legal descriptions. Ms. Nelson remarked that 732 Crescent Tram is complicated like 802 Empire. For that reason, they chose not to tackle them at the same time. The plan was to finish 802 Empire and then move on to 732 Crescent Tram.

Commissioner Suesser thought it would be helpful to see a slide that shows the larger area and the City parcel that separates the two. Planner Ananth presented a slide showing the 732 Crescent Tram parcel outlined in purple. On the north side was the 802 Empire parcel outlined in blue. Everything in between was the Treasure parcel. A yellow property line indicated the center section line which is where the Treasure parcel begins.

Mr. Kienzles pointed out that the driveway and the house depicted in the slide was his. He clarified that through lengthy litigation with the Sweeney's several years ago, he had a non-exclusive easement with what was formerly the Sweeney property and is now owned by the City.

Mr. Kienzles handed out copies of the letter from Wrona DuBois dated February 12, 2020 as well as the 2018 letter. The Commissioners took a few minutes to read the letters.

Commissioner Thimm was confused as to whether the neighbors were or were not noticed about this meeting. Ms. Kienzles stated that if he correctly understood the comment during the Huntsman property discussion, he thought the applicant made an extraordinary effort to include the neighborhood and explain what they were planning. It was not an attempt to fragment the project or to provide information incrementally. It appeared to him that the Huntsman's wanted to include everyone and hear their input. Mr. Kienzles apologized if he misunderstood the comment regarding noticing. His comment was not intended to be misleading.

Mr. Kienzles responded to Commissioner Thimm's question. Stated that he received his normal notice a week before the meeting, and he sent an email requesting information regarding the project. He promptly received the information he requested and sent it to his attorney at Wrona DuBois. Mr. Kienzles noted that they needed to wait for the Staff report which only came out a few days before the meeting, which did not give them much time to research the application. Chair Phillips pointed out that the Planning Commission has the same window of time between availability of the Staff report and the meeting.

Commissioner Thimm understood that the proper notification was done per the Statute and Ordinance.

Chair Phillips closed the public hearing.

Commissioner Suesser referred to the slide on the screen and asked if the small triangle piece was an additional parcel owned by Old Town Lands. Planner Ananth answered yes. Ms. Nelson pointed out that there are five small parcels in that little area, and easements are granted to give people access through the Crescent Tramway. Mr. Peek pointed out that the driveway would be in that triangle. The Crescent Tram walkway is also in that triangle.

Commissioner Suesser thought it should be clear that there is an additional parcel owned by this developer that could potentially be developed. Mr. Peek noted that the purple area is two parcels. A home in the back burned down and caused issues with the Angel House. The owner of that back parcel sold it to Mr. Peek because there were property line issues. The other piece is where the yellow home is located. Mr. Peek clarified that the historic home is part of the intrigue of that property and there is not

intention of removing it. Mr. Peek recalled that several years ago he came to the Planning Commission for approval to remove some of the non-historic additions to the yellow home. It was approved and the house was shored up to keep it from falling down.

Mr. Peek reiterated that the purple color was two separate pieces of property. He noted that Old Town Lands was working on different plans for that property. He is available anytime anyone wants to call and ask him questions. Mr. Peek stated that the idea is to either keep it two parcels with adjusted property lines or three parcels. Its square footage is equivalent to six Old Town lots. Access is off of Crescent Tram where the driveway currently exists.

Chair Phillips clarified that the neighboring properties were not part of the application this evening. He thought much of the letter from Wrona DuBois pertained to the historic home. Chair Phillips thought the Commissioners should understand the relationship of the owner owning adjacent lands, but they could not get into the details because an application has not been submitted. The Planning Commission needed to focus on the application before them this evening.

Planner Ananth pointed out that in between these two parcels is where the tail piece drops down into. There will potentially be cleaning up and quit claiming in that area in the future. Ms. Nelson offered to come before the public and the Planning Commission prior to getting to far into the plat work. Chair Phillips thought that would be helpful.

Chair Phillips informed Ms. Nelson that her slides were very helpful. Commissioner Suesser agreed that the slides were helpful and cleared up some issues. However, it would be better if it had captured a larger area to put it in perspective with the adjoining lots, because that is important when contemplating a subdivision.

Commissioner Kenworthy referred to the slide showing the frontage on Empire Avenue. He noted that LMC Section 15-3-3, General Parking Area and Driveway Standards, requires a 20' transition period from the back of the curb or where the City Engineer approves a 20' 2% Slope. He wanted to know where that starts and ends. Commissioner Kenworthy thought it appeared that the CUP area had it up against the edge of the asphalt. If that is the case, he wanted to know if that was acceptable to the City as defined in bullet 5 in Section 15-3-3.

Planner Ananth stated that the Engineering Department had reviewed this project and since the access from Crescent Tram is dangerous and not the preferred access, the Engineering Department indicated acceptance of the plan presented this evening.

Commissioner Kenworthy clarified that the City Engineer has approved it coming to the edge of the roadway in absence of a backside of a curb. Planner Ananth answered yes, if she was understanding his question correctly.

Commissioner Kenworthy read from bullet 5 of Section 15-3-3. "Drives serving more than one single family dwelling shall provide a minimum 20-foot transition area at no greater than 2%. Slope being at the back of the curb or as otherwise approved by the City Engineer". Commissioner Ananth agreed that it did not meet the letter of the Code, but the City Engineer had reviewed this project and indicated that access should be off of Empire Avenue.

Chair Phillips asked how they get around the Code compliance issue. Commissioner Thimm pointed out that the Code states, "unless otherwise approved by the City Engineer". Commissioner Kenworthy clarified that the City Engineer has looked at the plans and waived the requirement. Planner Ananth emphasized that the City Engineer has looked at the plans. Beyond that, she was not able to speak for the City Engineer. Commissioner Kenworthy understood that the City Engineer pushed the access to Empire because it is a better solution. However, he was concerned about stretching another area of the Code that may result in public safety issues if they push it all the way to the street. Commissioner Kenworthy understood they were using the edge of the asphalt and asked if it had the 2% or less slope for the 20'. Planner Ananth was not familiar with the exact slope.

Commissioner Thimm noted that page 157 of the Staff report contained slope information showing 12% and 11% driveways.

Commissioner Hall wanted to know the process if the City Engineer can waive the driveway requirement and whether it needs to be included in the Staff report. City Attorney Harrington noted that proposed Condition of Approval #5 requires City Engineer approval consistent with the Code. Mr. Harrington was unsure whether the City Engineer had engineered plans in front of him that he has or has not approved.

The Commissioners discussed the slopes indicated on page 157. Jonathan DeGray, the project architect, noted that the drawings indicate up to 12% on the apron. This was the drawing that was proposed, but he had not seen a direct comment from the City Engineer. If there were other constraints, they would need something in writing from the City Engineer.

Commissioner Thimm commented on the CUP criteria outlined on page 126 of the Staff report which says a driveway shall not exceed 10% slope. The Staff indicated that the

proposal Complies. He noted that the longer driveway is 11%. Commissioner Thimm questioned how the proposal was in line with the criteria. Mr. DeGray stated that the driveways within the property can be up to 14%. He believed the question of the apron was the issue. Mr. DeGray remarked that the 10% slope is achievable if they need to rework it.

Commissioner Kenworthy clarified that his question was prompted by the public safety issue. Personally, he thought it was a critical concern. Commissioner Kenworthy stated that if the City Engineer does approve the edge of the asphalt as the 20' apron, he would like him to be aware of the safety concerns.

Commissioner Suesser referred to page 162 of the Staff report which had the zone allowance for HR-1 and the proposed lots. She thought it would be helpful to have the existing lots listed as well, and a breakdown what would be buildable on each lot as currently platted versus what is being proposed by the subdivision.

Commissioner Thimm was trying to understand the right-of-way line on page 157. In looking at the map, there is a bold line with double dashes. He asked if that was the right-of-way. Planner Ananth replied that it is the lot line of 802 Empire in total. Commissioner Thimm stated that unless there is another lot in between, he assumed that was the right-of-way line. Planner Ananth replied that he was correct. Commissioner Thimm asked if the 12% driveway needed to be reduced to 10%. Planner Ananth answered yes, unless the 12% is approved by the Engineering Department. Commissioner Thimm did not believe the CUP review criteria could be overruled by the City Engineer. Mr. DeGray thought 10% was achievable. Commissioner Thimm suggested that the portion within the right-of-way should not exceed 10%. Chair Phillips asked if it should be a condition of approval.

Director Erickson remarked that there were questions on the table for both of these projects. One was a question from Commissioner Suesser regarding additional mapping on adjacent properties. If the rest of the Planning Commission supports that request, he would recommend bringing that forward. Director Erickson stated that if there is Planning Commission support on the question about driveways, that would need to come forward as well. Director Erickson thought there was also a question with respect to making sure the pathway location in the 7-1/2' is controlled correctly.

Director Erickson suggested that the Planning Commission open a public hearing on the CUP. If the Commissioners agree with the request for additional mapping and with the questions regarding the driveway in the right-of-way, they need to decide the best action to take this evening. He noted that the Planning Commission could either

continue this item with direction to the applicant, or they could craft conditions for action this evening.

Commissioner Sletten assumed that a continuance would apply to both items. Director Erickson answered yes. The subdivision is clearer, but access to the subdivision is not. Commissioner Thimm supported a continuance.

Commissioner Hall asked if the project for the other lots were in the pipeline. She asked if the other project was a close enough timeline to address both of them together. Chair Phillips thought the second project would be months behind the project before them this evening. Director Erickson understood that a number of property ownership issues need to be resolved with the second project. Chair Phillips was not in favor of tying the projects together because those are two different properties. Commissioner Sletten concurred.

Commissioner Suesser stated that since this item would likely be continued, she would like the applicant to address the significant vegetation on the site; particularly the large tree on Lot 19 and a grove of trees on the property. She wanted to know the plan for vegetation and whether the trees would be removed.

Mr. DeGray pointed out that the trees need to be determined significant, rather than just by size or diameter. He noted that per the Historic District Design Review, the applicant is required to submit a landscape plan that mitigates the loss of any vegetation. Commissioner Suesser understood that the assessment still needed to be done. Mr. DeGray replied that it would be done as part of the HDDR.

Commissioner Thimm summarized direction to the applicant based on their comments this evening, which included the driveway slope; clarity with regard to access; and the request to show the current buildable parameters on Lots 21, 20 and a portion of 19 versus what is proposed. Mr. DeGray noted that the Planning Commission had also requested an overall larger view of the project area.

Commissioner Hall recalled a comment about an easement for the staircase and having something in writing to that effect. Mr. DeGray thought the overall view would show what is available. He believed the easement was a separate issue.

Commissioner Kenworthy stated that if the City Engineer approves the edge of the asphalt and approves more than a 2%, he would like to see it. If the City Engineer pushes it back to the right-of-way and still requires 2% or less for the 20', it would result in a steeper driveway that the applicant will need to address.

Commissioner Suesser understood from the analysis that because this is a through lot it has two front setbacks, one on Crescent Tram and one on Empire. She was confused by the language, "...and that frontage can be measured on Crescent Tram in order to meet the minimum lot width". Director Erickson explained that lot width is measured 15' back from the property line and they had to make a determination on where they were measuring the lot width. He noted that the lot width was measured 15' back from Crescent Tram. He offered to make that clearer for the next meeting. Planner Ananth stated that it does not meet the minimum width off of Empire. Since there are two fronts, the Staff made a determination that it could be measured from either Empire or Crescent Tram. In this case it would be measured from Crescent Tram and not from Empire.

Director Erickson noted that the applicant had agreed to a continuance to the first meeting in April.

MOTION: Commissioner Thimm moved to CONTINUE the 802 Empire Avenue Subdivision to April 8, 2020. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

Director Erickson noted that the Commissioners' comments on the subdivision also apply to the comments on the conditional use permit and meeting the criteria.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

Commissioner Suesser referred to a utility pole currently in the driveway and asked if the proposed plan would move the pole or incorporate the pole on the site.

MOTION: Commissioner Kenworthy moved to CONTINUE the Conditional Use Permit for 802 Empire Avenue to April 8, 2020, with the same comments stipulated to in the Subdivision Continuance, with the addition of resolving the power pole question. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission Meeting adjourned at 9:00 p.m.

Approved by Planning Commission: _____

APPROVED 02.26.2020