

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
FEBRUARY 10, 2021

COMMISSIONERS IN ATTENDANCE:

Chair John Phillips, Sara Hall, John Kenworthy, Laura Suesser, Doug Thimm; Christin Van Dine

EX OFFICIO: David Everitt, Deputy City Manager, Gretchen Milliken, Planning Director; Rebecca Ward, Planner; Alexandra Ananth, Planner; Caitlyn Barhorst, Planner; Mark Harrington, City Attorney, Jessica Nelson, Planning Analyst

The Planning Commission meeting was conducted virtually via Zoom.

NOTICE OF ELECTRONIC MEETING & HOW TO COMMENT VIRTUALLY:

Chair Phillips read the Public Notice for Electronic Meetings and Exhibit A: Determination of Substantial Health and Safety Risk.

This meeting will be an electronic meeting without an anchor location as permitted by Utah Code Open and Public Meetings Act section 52-4-207(4) as amended June 18, 2020 and Park City Resolution 8-2020, adopted March 19, 2020. The written determination of a substantial health and safety risk, required by Utah Code section 52-4-207(4), is attached as Exhibit A. Planning Commission members will connect electronically. Public comments will be accepted virtually as described below.

To comment virtually, raise your hand on Zoom. Written comments submitted before or during the meeting date will be entered into the public record but not read aloud. For more information on participating virtually and to listen live, please go to www.parkcity.org/publics-meetings.

Exhibit A: Determination of Substantial Health and Safety Risk

The Commission Chair has determined that conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. Utah Code section 52-4-207(4) requires this determination and the facts upon which it is based, which include:

- Statewide COVID cases and hospitalizations remain high.
- Based on metrics established by the statewide COVID-19 Transmission Index, Summit County moved to the High-Risk designation on October 22, 2020; and

- Park City is a resort community continually hosting visitors from areas which may be experiencing rapid COVID-19 spread.

This determination is valid for 30 days and is set to expire on February 20, 2021.

Dated January 20, 2021.

ROLL CALL

Chair Phillips called the meeting to order at 5:30 p.m. and noted that all Commissioners were present.

Chair Phillips asked the new Planning Director, Gretchen Milliken to introduce herself. Ms. Milliken stated that she was glad to be participating in her first Planning Commission meeting. This was her second week on the job, and she was excited to be in Park City. Chair Phillips welcomed Planning Director Milliken and noted that the Commissioners were all looking forward to working with her.

Planning Director Milliken reminded the Planning Commission to do the intro training for Municipal Officers. Four members had not yet done their training. She did the training herself and it was quite simple.

The Planning Commissioners welcomed Director Milliken. Commissioner Kenworthy echoed her remarks that the test was easy.

APPROVAL OF MINUTES

January 20, 2021

MOTION: Commissioner Kenworthy moved to APPROVE the Minutes of January 13, 2021 as written. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

January 27, 2021

MOTION: Commissioner Thimm moved to APPROVE the Minutes of January 27, 2021 as written. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

No eComments were submitted and no hands were raised on Zoom.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planner Caitlyn Barhorst provided an update on the progress made following the adoption of the Addendum to Technical Report #6 of the Flagstaff Mountain development on May 27, 2020. She reported that in the following months the Staff reviewed the proposed work for the Daly West Headframe to be relocated approximately 150 feet southwest of the historic location due to the conditions of the mine shaft collapse in 2015. That proposal was approved by the Historic Preservation Board on August 5, 2020. Planner Barhorst stated that the work was still in review and final details were being worked out to potentially begin the work in the upcoming construction season.

Planner Barhorst reported that the annual work plan meeting was scheduled on Friday with Planner Brendan Conboy, Director Milliken, Doug Ogilvy, and herself to review the checklist item in the MOA. Planner Barhorst stated that Friday would be her last day with the City, but if any of the Commissioners were interested in reviewing the HPB report they should contact her.

Commissioner Kenworthy was sorry that Planner Barhorst was leaving the City and he congratulated her on becoming an architect and moving forward. He thanked Planner Barhorst for her service.

Commissioner Kenworthy asked if the Master Owners Association's agreement with City Hall encompassed all the necessary pieces. Planner Barhorst stated that from the pieces she picked up from Hannah Tyler before she left, there were still questions regarding the upcoming fiscal year funds. She was involved more with the actual preservation plans and preferred to defer the question to someone with a better understanding of funding.

City Attorney Harrington clarified that the agreements were approved by the City Council and executed, and the portion called out in the first year went as planned. It was a great success and he thought Bruce Erickson would be proud of the work the Planning Department did in the first year with Planner Tyler and transitioning to Planner Barhorst. Mr. Harrington believed the community should be very pleased.

City Attorney Harrington offered to speak with Director Milliken to make sure a report goes out to make sure the progress and how much has been achieved does not go unnoticed. He noted that the concern was that the Daly West project would initially exceed the allocated resources; however, the revenues that came in due to the real estate bump this year, the funds were sufficient to cover the costs without the City

having to front end any costs, which they were planning to do. Mr. Harrington emphasized that the City is very pleased with this project and hopefully it will move forward under the terms of the agreement as executed. He also appreciated Deer Valley's cooperation in working through the acquisition with JSSD to enable this project to go forward. It truly was the multi-party effort that the original agreement envisioned.

Commissioner Kenworthy was pleased with the update and he appreciated the Master Homeowners Association finally moving this forward. Historic preservation is a huge economic driver for the City.

Chair Phillips was pleased to see the cooperation among the community to get the headframe back up. He thought it was a testament to the strength of the Park City community and the importance of historic sites.

Chair Phillips wished Planner Barhorst well in her next venture and her career. He appreciated her time and her professionalism, and all her hard work for Park City. She will be missed.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

- 5.A. Land Management Code Amendments – The Planning Commission will Consider An Ordinance Enacting Affordable Master Planned Development (MPD) Chapter 15-6.1 to Establish a New Review Process and Criteria for Affordable MPDs wherein at least Half of the Residential Square Footage is for Deed-Restricted Affordable Units. Building Height for Affordable MPDs is Proposed to be up to Forty-Five Feet and Parking Requirements may be Reduced with Certain Mitigations. Affordable MPDs are Proposed to be Allowed in the Residential Development, Residential Development Medium, Residential Medium, Recreation Commercial, General Commercial, Light Industrial, and Community Transition Zoning Districts.**
(Application PL-21-047380)

Planner Rebecca Ward reported that this was the last scheduled meeting for the Planning Commission to review the Affordable Master Planned Development amendments. The purpose of this meeting is to provide the public one more opportunity to comment on the proposed amendments. She stated that this was the final phase in the ongoing three-year process to craft a Code that would incentivize public/private partnerships, to implement the City's goals, and to incorporate some of the recommendations from Cascadia Partners. It includes amendments that were already enacted last year to reduce open space requirements and setbacks. Planner Ward

stated that overall, this separates the Affordable Master Plan Development Code from the Master Plan Development Code. It also carves out a new review and approval process for these developments that provide at least 50% of the total residential unit equivalents as affordable. It permits these developments in non-historic zoning districts where multi-units dwellings are allowed or conditional. It establishes volume-based density in all zoning districts. It allows for parking reductions, increased height, and mixed-use development. It prohibits nightly rentals and timeshares, and it requires recordation of deed restrictions for a 40-year period. Additionally, it requires annual compliance reports from the owners of the affordable units.

Planner Ward stated that in the last session there were clarifications to parking where applicants must meet the required parking in the Code, but they can request a reduction in parking if they demonstrate that it materially increases the feasibility of the project, if they fund and submit a parking and traffic study and demonstrates that the proposal sufficiently addresses the parking demands. The Planning Commission can reduce the parking; however, the parking cannot go lower than the reductions outlined in the table, based on the Planning Commission work session that was held specific to parking.

Planner Ward presented the criteria for parking reductions established by the Planning Commission and recommended by Cascadia Partners for certain reductions on small sites that are less than an acre. These include, if off-street parking is available along the perimeter of the project; if there is a clear and irrevocable agreement that authorizes tenants to park in an off-site parking area within 1,000 feet; if the project is within a quarter mile of a transit stop that has a waiting shelter consistent with City standards; if there is additional on-site parking for motorcycles and scooter; or if there is additional bicycle parking or facilities for parking that exceed the requirements of the Code. The last option would be for the developer to include Carshare for residents within the development.

Regarding building heights and facades, Planner Ward stated that the building height for these developments is allowed to go up to 45', but to achieve that height there must be a 10' stepback from all perimeter building facade planes that comply with the underlying zoning district. Infrastructure must be in place or updated to meet the demand. The building must comply with the building facade variation requirements.

Planner Ward presented renderings she had pulled from the Cascadia Report, which would be replaced before the City Council meeting on February 25th. She pointed out that the rendering on the left only showed a setback on the left facade; however, the rendering will be updated and put into the Code to illustrate what is allowed under the Code.

Planner Ward remarked that a question raised at the last meeting was whether the amendments allow for both sales and rentals of affordable units, and the answer is yes. There is a section in the Code that requires recordation of deed restrictions that comply with the Housing Resolution, and they must be in a form approved by the City Attorney.

Planner Ward explained that the Housing Resolution and the Deed Restriction template outlines the requirements for both for-sale and rental units. The requirements go into the details of the maximum for-sale or rental price, the required qualifications to purchase or rent an affordable unit, and the procedures to set up the sale or rental of the unit. Planner Ward emphasized that as drafted, both rentals and the purchase of affordable units is allowed.

The Staff recommended that the Planning Commission open a public hearing and consider forwarding a positive recommendation to the City Council for their consideration on February 25, 2021.

Planner Ward noted that Jason Glidden, the Affordable Housing Manager, was also on the line to answer questions.

Chair Phillips opened the public hearing.

Deborah Rentfrow raised her hand on Zoom and was unmuted to comment.

Deborah Rentfrow commented on the building height portion of the amendments. She had concerns with the recommendation for a height allowance to go from 35' to 45' in height before it is considered an exception. She looked at a zoning map to see in which zones this would apply, and she found that three of those zones are only zoned for 28' height, one is zone for 30', and two zones are for 35'. Ms. Rentfrow stated that increasing the height to 45' based on the grade level, and because of changes in grade, there will be times when 45' will seem like 55'. She noted that LMC 15-6-5F, Building Height for Regular MPDs, states that buildings need to be positioned in a way to minimize visual impacts on the adjacent structures. Ms. Rentfrow stated that considering the zones in which they were looking at approving a 45' height allowance, compared to what is currently allowed, she thought it would be difficult to minimize the visual impact on the existing adjacent structures on Empire, Lowell, Norfolk, Woodside, Three Kings, Payday, the Arts and Culture Area along Kearns Blvd., Little Kate, sections of Park Meadows along Monitor. In looking at the homes in those locations, a 45' height would definitely impact the adjacent structures. Ms. Rentfrow asked the Planning Commission to take those factors into consideration before making a positive recommendation.

Chair Phillips closed the public hearing.

Chair Phillips asked Planner Ward to address the public comment and whether or not the comments were accurate. Planner Ward stated that the proposed zones range from 28' to 40'. However, within those zones there is usually a five-foot exception, depending on the roof type to increase the height to 33' to 40'. She noted that there would be an increase of approximately 12' that would be stepped back. Planner Ward explained that the Staff and Cascadia looked into the 10' stepback in order to reduce the impact on neighboring properties. She remarked that one of the underlying principles in the Code is to create a code that establishes by-right development that is not conditioned on Planning Commission discretion. The building height is one of those areas in the Code, which allows going up to 45' if the three criteria are met, and there is a 10' stepback from the building facade plane that achieves the underlying zone height. Planner Ward clarified that the height is measured from existing grade.

Commissioner Suesser asked if the 45' height includes utilities or anything else on top of the building such as elevator shafts, etc. Planner Ward replied that the usual allowances are outlined in the Code. Within the 10' stepback there would be exceptions for chimneys, roofs, windowsills, exterior siding, and roof top decks. These exceptions cannot go up to the edge of the building, but they can go into the 10' stepback. Solar energy systems, green roofs and rooftop gardens, and screened mechanical equipment are exceptions within the 10' stepback. The exceptions for the 45' building height are for things that might be required under the International Building Code, such as a 5' addition for antennas, chimneys, water towers, mechanical equipment or solar energy systems. Those exceptions are outlined in the Code.

Chair Phillips stated that in the past they have matched heights from floor to top plate in many of the residential zones. He believed the purpose was to limit the mass of the building on a slope. Chair Phillips asked if they should consider setting up something similar to address any unintended consequences resulting from the height increase.

Planner Ward recalled a discussion from the November 11, 2020 work session on whether the height should be based on the number of floors within the building. The direction at that time was to establish the maximum height rather than the floors. Chair Phillips also recalled those discussions, but he was concerned about allowing a building climbing up a hill to be taller than the rest, and how potentially massive a building on a slope would be. Chair Phillips was most concerned with increased height in the residential zones closer to the Resort, especially with the cross-canyon views.

Commissioner Thimm stated that when they discussed height during the earlier work sessions, he recalled walking through the idea of offering positive incentives to get affordable housing built where it is needed and can sustainably occur, with sensitivity

based on creating the setbacks. Commissioner Thimm remarked that it is not easy because when a building is stepped back 10', systems can no longer be stacked all the way up. However, it also tremendously helps with the perception of the building height as it steps back. Commissioner Thimm remarked that when going up a hillside, they could take into account that the height is based upon the existing grade, and the heights change only incrementally based on what the existing grade is. He thought the Planning Commission had come to the conclusion of trying to create a real incentive.

Commissioner Kenworthy stated that Deborah Rentfrow's passion for Park City is admired, and he appreciated her making the effort to comment. Commissioner Kenworthy remarked that personally, he was hesitant to cherry pick the expert's opinions. He agreed with Commissioner Thimm that the Planning Commission had the discussions, and it was a difficult decision. Commissioner Kenworthy stated that for 36 years they have had no public/private and the City is behind on its affordable housing, which is a critical community goal. Commissioner Kenworthy pointed out that the wealth gap was exploding in Park City, similar to other resort towns.

Commissioner Kenworthy wanted Ms. Rentfrow to understand why he would be voting to forward a positive recommendation to the City Council. His decision is based on the numbers from the Housing Authority as follow: whether single-family or condos, for every 100 units 49 jobs are created in that community. For a 3 to 4-star hotel room that is placed in a community, 3.5 jobs are necessary. The number increases to 5 jobs for a 5-star hotel. Commissioner Kenworthy emphasized that the City is behind in its goals and vision for a more balanced community. As a City they are doing the right thing. They want to protect the continuity with these setbacks and other guidelines recommended by Cascadia, who are the experts on affordable programs. Commissioner Kenworthy was comfortable with these compromises.

Commissioner Suesser stated that throughout this process she has been concerned that experts like Cascadia Partners give advice on how to incentivize developers and cut costs for affordable housing projects to make it pencil for developers to build affordable housing in the community. The City has taken that advice and most of it has been incorporated into these LMC amendments. Commissioner Suesser was concerned that the recommendations from Cascadia were not made with an eye towards what is compatible in this community and what this community would support in terms of exceptions. She felt they were trying to create a Code that basically does not give the Planning Commission any discretion. If the developer meets the criteria, they get the approval. Commissioner Suesser preferred to give the Planning Commission some discretion.

Chair Phillips asked if a project on a slope greater than 30% needed to go through a CUP process, or whether that process would not apply to Affordable Housing MPDs. Planner Ward replied that the project would be required to meet the LMC requirements. If a Steep Slope CUP were required, it would go through the CUP process. Chair Phillips asked if those CUPs were handled administratively. Planner Ward was unsure whether they would come to the Planning Commissioner and offered to confirm and report back. Planner Ward stated that if properties are located in the Sensitive Lands Ordinance, the AMPD would need to go through the Sensitive Lands Ordinance review and comply with the criteria. Planner Ward noted that Sensitive Lands was addressed in line 442 of the redlines, and states that applicants for AMPDs that contain any area within the Sensitive Lands Overlay Zone shall conduct a Sensitive Lands Analysis and shall conform to Chapter 15-2.21.

Chair Phillips still had concerns about giving a substantial height increase in some areas. He pointed out that in those areas, the neighbors need to follow guidelines that restrict the overall building height from floor to roof. He understood the prescriptive rights as being the incentive, which is important for developers to be willing to do affordable housing; however, he was concerned about giving additional height without the floor plate restrictions that everyone else in those areas must abide by. Chair Phillips believed they could do the same restriction for developers but set it at a different height for these buildings. He was concerned that a developer could build something that towers over everything else, and results in a discussion about how the Planning Commission allowed this to happen. At that point the pendulum will swing the other way and people will be opposed to this idea. Chair Phillips hoped the City Council would take this concern into consideration.

Chair Phillips stated that aside from his stated concern, he thought this was a good amendment and would move the needle on affordable housing to meet the community needs.

Commissioner Hall agreed with Commissioner Kenworthy. She thought everyone on the Planning Commission believed the City needs to take bold action. When she reads the draft ordinance in its entirety, she feels good about it; however, she was hesitant about the 45' height exemption. Commissioner Hall felt that in some areas, the height would blend in, but in other areas it would stand out a lot more. She also shared Chair Phillips concern that enough negativity would swing public opinion the other way. Commissioner Hall had no insight as to how to address the problem. She intended to vote in favor of the draft ordinance as written because she did not want it further delayed. Chair Phillips concurred.

Chair Phillips thanked Planner Ward and Jason Glidden for their hard work on drafting this ordinance.

Commissioner Thimm appreciated how the draft ordinance was presented and how thorough the process has been. He noted that the Commissioners made modifications to what was originally presented, and it was tempered for the community. Commissioner Thimm believed they had established a strong record through all of their meetings, and they looked and listened. He appreciated how far they had come with the draft ordinance.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council concerning the proposed Affordable Master Planned Development Land Management Code Amendments for their consideration on February 4, 2021. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

5.B. 7677 Village Way - Plat Amendment - The Applicant Proposes To Subdivide the Main Parcel Underlying the Building, and Create a Second Parcel Containing .35 Acres on the Northernmost Point of the Development. The Applicant Is Also Proposing To Combine Units 201 and 202 Into One (1) Unit (Now 201) for a Prospective Buyer. (Application PL-20-04374).

Planner Alexandra Ananth reviewed the application for a plat amendment for 7677 Village Way. This project was originally approved in 2019 as a condominium for 28 units with parking below. This is Lot 2, a two-acre lot, in the Village of Empire Pass subdivision. It is part Pod A in the Flagstaff Mountain Development Agreement. The lot is approved for a lodge style building, which is currently under construction.

Planner Ananth reported that the applicant was requesting to combine two units into one for a prospective buyer, and also to subdivide the underlying land into two separate parcels. Planner Ananth presented a slide showing the two units that would be combined into one unit. There would be no change in density or overall unit equivalents. It would simply remove a wall. Planner Ananth stated that the second request is to subdivide the lot to create a Parcel A. She presented a slide showing the original lot in its current shape, as well as Parcel A as the applicant was proposing. It is a .35-acre lot. There is no density associated with the parcel. The building currently being built takes up all the density on the lot. The parcel is effectively open space.

Planner Ananth clarified that the applicant was only proposing to create this additional parcel. There is no land swap at the current time.

The Staff found good cause for this plat amendment as it allows for the combination of two units into one larger unit, and the creation of Parcel A. Any future land swap would come to the Planning Commission. Dividing the lot in two has no material change on the density, open space, or setbacks of the project.

Planner Ananth stated that she had received one public comment from Tom Jacobsen, which was also sent to the Planning Commission. The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council for their meeting on February 25, 2021.

Chair Phillips referred to page 3 of the Staff report and noted that the last sentence reads, "Approval of this amendment will bring the number of multi-family units approved in Empire Pass to 536". Planner Ananth explained that the number was reduced from 537. There is an allowance for up to 550 multi-family units, and 537 have been permitted. This would bring that number down to 536. Planner Ananth clarified that the overall unit equivalents are capped as well.

Chair Phillips opened the public hearing.

The following people raised their hand on Zoom and were unmuted to comment.

Jessica Nelson reported that Thomas Jacobson had asked to share his screen during his comments.

Thomas Jacobson stated that is an attorney representing Carrie and David Marriott who are owners in the One Empire Building, which is adjacent to the Argent Building and to the subject area in this application. Mr. Jacobsen presented an aerial view of the properties. He indicated the Argent building currently under construction, the One Empire Building, and the areas being discussed this evening. Mr. Jacobson thought it was important to look at proper planning and the City should not take this piecemeal. He believed this was a piecemeal situation. His clients are sympathetic to the fact that the owners of Argent and the developers of several of these parcels are finished developing the properties and they need to move on to other business activities. However, there are a lot of issues with regard to this particular property and where it sits. Mr. Jacobson indicated a parcel that at the present time is owned by the developers of Argent. He pointed to a parcel known as the Marsac Claim, which is owned by LEC Development Company. He also pointed to the area where One Empire is located. Mr. Jacobson remarked that there are concerns regarding future development in this area for several reasons. A good development plan needs to start at the very beginning, dividing lots and talking about future land swaps and future

development, needs to be considered together. Mr. Jacobson stated that driving along Marsac there is a substantial elevation difference between what is labeled as Parcel A and what is labeled as the roadway. He believed there would be a lot of issues with regard to accessibility to the property, circulation issues, etc., if there is ever a thought of developing the property. Mr. Jacobson remarked that the best planning at this point of time is not doing it piecemeal by allowing Parcel A to be split off from the rest of the parcel, but rather to look at the future with regard to Parcel A.

Mr. Jacobson complimented Mr. Fiveash for his efforts in trying to work this out however, his clients are very much concerned about what goes on in the area and how it will affect traffic and other things. If they do not look at the whole process and where it is going, they end up with some of the nightmares they have already seen in Park City and the rest of Utah. Mr. Jacobson recommended that the Planning Commission continue this matter until such a time when there can be a full discussion and full review as to what will take place in connection with this particular area. He believed that doing it otherwise would be inconsistent with what Bruce Erickson and others did over the years to ensure that planning in this area was done precisely and accurately to provide what is otherwise a very successful community. Mr. Jacobson reiterated his recommendation to continue this matter until various issues can be worked out with regard to the ability to develop on this Marsac Claim, and with regard to any other efforts to keep Parcel A as open space forever.

Isaac James, with the Richards Law Office, stated that he represents the One Empire Pass Owners Association, which is the condominium project directly adjacent to the Argent parcel under discussion this evening. Mr. James was present to voice the concerns of the One Empire Pass Owners Association relating to the application for the subdivision of Lot 2. He did not believe there was any objection to the consolidation portion of the application. Mr. James stated that his clients' objections were centered around the same points Mr. Jacobson outlined, but from the viewpoint of Owners Association as a whole. Mr. James remarked that as described in the Staff report, Pod A went through a rigorous development approval process with the City to create a master planned development. The master plan carefully established unit mix density, infrastructure, building volumetrics, height exceptions, density, development locations, and other things; and a lot of time, effort, and detail went into that Development Agreement. Mr. James stated that as described in the Staff report, this application for the subdivision of Lot 2 is intended to facilitate a future land swap between the owner of Lot 2 and the neighboring Marsac Claim parcel. He felt there was a stark lack of information in the Staff report or elsewhere relating to a future land swap, which this subdivision is meant to facilitate. He remarked that while the actual subdivision of the lot at first blush does not appear to violate any lot size, setback, or other physical requirements, the careful master planning of this area and of the Village at Empire Pass

dictates a careful evaluation of what effect this subdivision and related land swap would have on the Village at Empire Pass and on this master development scheme and the surrounding properties. Mr. James stated that if the ultimate purpose of the land swap is to facilitate development, a number of issues would need to be considered. He thought approving the Lot 2 subdivision at this point without further information effectively walks the City one step down a development road that is difficult to step back from. With respect to his clients specifically, they do not have any information regarding the purpose of the land swap or any proposed access or easements that would inevitably affect One Empire Pass as a property adjacent to both the Argent property and the Marsac property. Mr. James noted that the Staff report also talks about the subdivision being undertaken in order to protect view corridors and open space adjacent to the Argent at Empire Pass. To the extent the Planning Commission is relying on these statements as the basis for recommendation of approval, he thought they should be disregarded. Mr. James stated that the One Empire Pass condominium project currently enjoys a similar view corridor to the Argent project. However, the land swap, which is targeted at facilitating development of the Marsac property, will affect the view corridor for One Empire Pass. Mr. James pointed out that from the City's perspective, preservation of view corridors should be in favor of all constituents; not just in favor some at the expense of others. The owners of One Empire Pass sold these condominium units in reliance on representations from the developer that nothing would be built in that view corridor, and they would maintain those views. Now, the same developer is attempting to peddle similar promises to the owners at Argent at the expense of One Empire Pass owners. Mr. James stated that the asserted goal of preserving view corridors should not be applicable in the consideration. He remarked that similarly, the idea of preserving open space should not be served by the subdivision of Lot 2 because it actually facilitates development at location that are unfavorable to neighboring properties and favorable to the applicant.

Mr. James clarified that his clients' position is simply that the Planning Commission should require more information and planning before embarking on this initial step down a road that will require substantial planning and changes to the development scheme for the Villages at Empire Pass and the surrounding properties. For that reason, they respectfully request that the Planning Commission make a negative recommendation for the subdivision of Lot 2 at this time.

Thomas Jacobson supported Mr. James' comments. He believed it was a case of ignoring the 800-pound gorilla in the room. A simple lot split is not a problem or creating a separate lot. The problem is what is down the road. He thought they needed to look at the 800-pound gorilla in the room that everyone was attempting to ignore.

Chair Phillips closed the public hearing.

Hannah Tyler clarified that she was helping Bill Fiveash with this project. She was on the applicant team this evening and not a planner.

The applicant, Mr. Fiveash, addressed a few issues that were raised by Mr. Jacobson and Mr. James. The first was a slight objection to the characterization of this being a piecemeal approach. He wanted it clear that the owners of the Marsac Claim were invited to participate in the Flagstaff Development Agreement process in the 1990s and early 2000s, and they chose not to participate. It has been a source of challenges for their community since that occurred, and the property has change hands multiple times since that point in time. Mr. Fiveash stated that the goal is to protect the integrity of the Flagstaff Development Agreement, which is what they were trying to do with the parcel subdivision.

Mr. Fiveash referred to comments about a land swap. He clarified that the applicant has been communicating with the owner of the Marsac Claim for over six years. They are the development company that did the development of One Empire Pass. When they purchased the One Empire Pass parcel, the Marsac Claim was a problem for that parcel, and they attempted to negotiate with the owner of the Marsac Claim to find something that would work mutually for both parties to be good neighbors. Mr. Fiveash remarked that they did not have anything of valuable to offer because they were limited on what they purchased at that time. Mr. Fiveash stated that they undertook the One Empire Pass development in a way to mitigate the impact of the Marsac Claim as much as possible. They designed the building with 100% of the residences having a living room, dining room, and kitchen on the south side of the building with views up towards the Montage and Daly Shutes. They put the bedrooms on the back knowing that at some point there could be development on Marsac Claim. Mr. Fiveash stated that the Argent property, which they purchased two years ago, was also affected by the Marsac Claim, but it did not the benefit of being able to be designed in a way that would mitigate future problems of development on Marsac claim. In this case, most of the living rooms, dining rooms, and kitchens were placed on the north side of the building, with views down valley and up north to the northern Uinta's. Mr. Fiveash noted that the parcel is an odd shape and the value of the land north of the Marsac claim is marginal as it relates to the ownership of the Argent. It is landlocked from the main building and does not bring much value.

Mr. Fiveash reiterated that they entered into conversations with the owner of the Marsac Claim at least two years ago to start to work out something that would be mutually beneficial to both parcels. They have not been able to come to any conclusions because the owner of the Marsac Claim does not have clarity on what he is entitled to

or what he wants to do on that parcel. Mr. Fiveash remarked that it remains in limbo in the Planning Department with a legacy going back to their decision not to be part of the Flagstaff Development Agreement. He emphasized that no one really understands what will go on that parcel in the future. In his opinion, the idea of waiting until the Marsac Claim application comes in or is considered complete in order to make a decision on what they should do to protect the value of the Argent property did not make sense. Mr. Fiveash stated that they were attempting to create Parcel A as a tool they could use to encourage the Marsac Claim owner to move his development away from the back of the Argent parcel.

Mr. Fiveash clarified that they were requesting a subdivision and not a land swap because when they investigated the concept of a land swap, the Marsac Claim owner was not interested because he is not clear about his entitlements under the LMC. The density is related to his total acreage in some form that would eventually come before the Planning Commission. For that reason, the owner of the Marsac Claim did not want to give up any land in fear of losing his density. Mr. Fiveash stated that the applicant wants to create this parcel and potentially deed it over to him as open space, as an incentive to push the Marsac Claim development away from the back of the Argent property line. Mr. Fiveash clarified that the subdivision would not encourage development because there was no density on this parcel. They have used 100% of their density that was allocated through the Flagstaff Development Agreement. The 64,500 square feet remaining to be built was designed into the building which is already permitted and under construction.

Mr. Fiveash stated that the intent is to protect the view corridor from the back of the building, which is important to the future owners of the building. If they cannot come to a conclusion with the Marsac Claim owner prior to completing the building, the Homeowners Association would retain ownership of Parcel A and would be able to do the same thing in the future. He pointed out that by creating this parcel they were setting up the ability for all the homeowners to have something to negotiate in the future. Mr. Fiveash clarified that there is not a plan because it is a complicated scenario that has been ongoing for more than 25 years. This applicant was only trying to put their homeowners in a position to have the best possibility to protect that area in the future.

Mr. Fiveash stated that it is clear that there are no entitlement rights on that parcel. If they preferred to address that with a plat note to ensure that nothing is developed on that parcel without coming to the Planning Commission, the applicant was willing to do so because it is only open space to them. They were only trying to create a separate lot that could be traded as open space or other purposes in the future.

Commissioner Suesser asked Planner Ananth to address why the lack of density allocated to this parcel was not part of the Staff report. Planner Ananth noted that the table in the Staff report discusses the fact that the Argent property had used all its density for the building. All of the UEs were used in the building that is currently under construction. There is no leftover density associated with any of the land.

City Attorney Mark Harrington pointed out that the density was addressed in Condition of Approval #6 in the draft ordinance.

Commissioner Suesser asked whether Mr. James and Mr. Jacobson had read the conditions of approval and if their objections to this approval took that into consideration. Chair Phillips preferred to hear from the other Commissioners before reopening the public hearing to allow Mr. James and Mr. Jacobson to respond.

Chair Phillips stated that he was hearing new information in this meeting that he was not aware of, and he needed to understand it better before making a decision. He was inclined to approve the first request of this application and continue the second request until they have more background information. It would also give the public additional time to engage with the applicant and come to some agreement.

Commissioner Hall agreed with Chair Phillips regarding forwarding a positive recommendation for the consolidation of the two units. She was also willing to forward a positive recommendation on the second part to subdivide if they could add a specific note to the plat to clarify that that Parcel A will be open space and would not add additional density in any future land swap.

Commissioner Thimm concurred with Commissioner Hall. He was not concerned with respect to what a buyer of a condominium may or may not have been told by a salesperson many years ago. However, the idea of having the chance to designate that parcel as permanent open space as a plat note was a strong reason to look at this favorably.

Commissioner Kenworthy agreed with Commissioners Hall and Thimm. Commissioner Kenworthy asked if there were other motivating issues for a future swap. Mr. Fiveash stated that Storied Development, East-West Partners, and others have tried to buy out the Marsac Claim in the past as a way to protect the entire area. The owner is a local developer, and he is not a willing seller. Mr. Fiveash thought the motivation for the primary objections from the One Empire Pass owners is because it has the intent of pushing the development to the west. If and when the Planning Commission approves development on that site, the Marsac parcel will be accessed from the west side. In trying to protect the east side it probably feels like they are pushing development in the

direction of One Empire Pass. Mr. Fiveash clarified that the Planning Commission would authorize whatever is built on that parcel.

Chair Phillips stated that the idea of doing something that will directly impact a neighboring property is not good cause. He liked the idea of putting a note on the plat. Mr. Fiveash reviewed the plat. He pointed to where the Marsac Claim abuts Marsac Road on the west side and noted that it does not reach the road anywhere else. He explained what they were proposing and where it would occur. He explained what the owner of the Marsac Claim could do if Parcel A is approved and what he could do without it. Mr. Fiveash did not believe that this applicant negotiating by giving him land to keep the parcel as open space would have a negative impact because it is his property and his right to do with as he wants. They were only encouraging him to do something on this specific portion.

Chair Phillips could see the potential benefit to One Empire by allowing the building to be moved. He still struggled with some of the other issues and the anticipation of something that might occur.

Mr. Fiveash remarked that creating the parcel does not make anything happen. They could add language stating that the owner of the land cannot develop without some type of Planning Commission approval.

Chair Phillips reopened the public hearing.

Thomas Jacobson stated that what Mr. Fiveash was talking about was not included in the ordinance the Commissioners would be adopting. There is no restriction on Parcel A with regard to building, and there is no proposal to enter into a restrictive covenant that would be recorded and run with the line in connection with any restriction on development. Mr. Jacobson remarked that this attempt to help has many shortcomings down the road, which would include the land swap if a land swap took place. He pointed out that if a land swap takes place, it is clear that the only way the owner of the Marsac Claim would agree is if Parcel A is developable. If the idea is to not make Parcel A open to development, there would be no reason to move ahead with a land swap. Mr. Jacobson believed they were just beginning to talk about things that should have been discussed weeks ago, such as restrictions for building on Parcel A and what affect it would have. He disagreed with Mr. Fiveash that if things are left as they are, the HOAs would take care of it. Argent would be affected as well as One Empire in connection with anything attempted on Parcel. Without any definitive as to what will happen to Parcel A, it would open Pandoras box where a future Planning Commission and future planners would not know the history and could get trapped into a situation where Parcel A and any land swap becomes a parcel they want to develop.

Mr. Jacobson noted that they talked about the fact that entitlements have been used up. If that is the case, when the owner of Marsac Claim wants entitlements, he will demand new entitlements because he was not part of the original Flagstaff Development Agreement. Even if Parcel A was carved off of a parcel that was fully developed, he could want new concessions and combine those with the Marsac Claim. Mr. Jacobson believed there were many issues with regard to allowing Parcel A to be divided off right now, especially without any restrictive covenants that apply to development, to future use, and to any future entitlements that might be afforded that property. Without addressing those issues at this time, they will open the door for the Marsac Claim owner to put his entitlements on Parcel A. It will increase the density and increase the problems related to transportation and road accessibility. Mr. Jacobson stated that until they address the issues on Parcel A, they would circumvent the Master Plan.

Steve Issowitz raised his hand on Zoom to make comment.

Steve Issowitz with Deer Valley Resort understood that the application was to take a parcel that is not currently restricted and add a deed restricted open space. If that is accurate, it is always a good win for the area whenever they can get open space; especially as they see infill all around town on parcels that have no restrictions. Mr. Issowitz agreed that the Flagstaff Development Agreement restricts all develop in the area, and this applicant is out of additional density, but he could not see the relation with the Marsac Claim because it would be an entirely different application to come before the Planning Commission. He assumed that development would entail another MPD process. Mr. Issowitz stated that if Mr. Fiveash and the owner of the Marsac Claim did negotiate something in the future, and if the Planning Commission was comfortable transferring open space from one to the other, both of those speculations would need to occur before wondering where the Marsac Claim would develop their property. Mr. Issowitz stated that if both of those things were to occur, if a future potential development stayed on the western side of the Marsac Claim and/or to the north parcel appeared to be a better location. He noted that the down views for the One Empire residents would be affected, regardless of what is built. Mr. Issowitz thought the proposed request would help those owners as opposed to hurting them. He understood speculating about various hurdles for a developer and doing a potential future land swap provides more ability to get an approval from the Planning Commission, but he did not see how a decision this evening on adding open space to this parcel would have a negative effect.

Chair Phillips closed the public hearing.

Commissioner Suesser agreed with Mr. Issowitz that designating the parcel as open space is a win for the area. She favored putting the restriction on the plat. However, she suggested that it might not be ready for a decision, and the Planning Commission should just move forward with the combination of the two units and have the applicant come back with revised suggestions on how to move this forward.

Commissioner Hall held with her prior comments. She was comfortable with forwarding a positive recommendation with a plat note amendment for open space. She was also willing to continue it if the other Commissioners needed additional time.

Commissioner Van Dine was willing to forward a positive recommendation as long as the applicant was willing to add a plat note to designate open space. She was not opposed to waiting to hear more from the applicant, but she agreed with Mr. Issowitz that open space is a win.

Commissioner Kenworthy noted that if this lot was every given approval to build on it would block two view corridors. If they approve the proposed request this evening, the only possibility is that one view corridor might be blocked. Commissioner Kenworthy did not believe that the action this evening would harm anything in the future because the view would always be blocked of the developer is given building rights. Commissioner Kenworthy could see the benefit of getting open space; however, was willing to forward a recommendation or wait for more information.

Commissioner Thimm stated that having a restriction that limits Parcel A to open space is a positive effect. He did not believe it was the position of the Planning Commission to conjecture with respect to what may or may not happen years in the future. The Planning Commission needs to look at land use decisions based on what is in front of them. Designating Parcel A as open space might seem redundant since there is no entitlement left for additional development, but it reinforces that fact. Commissioner Thimm supported the entire proposal given the stipulation of the open space.

Chair Phillips agreed that it is effectively open space and adding the plat note reinforces it. His only reservation is that nothing changes on this lot, but it can potentially impact other neighboring properties. However, he recognized that the other owner would not be negatively impacted because he has every right to develop what they already have. With that knowledge, Chair Phillips could support this application. He was unsure whether he had enough information to make a decision, but as the Chair he is not able to vote.

Commissioner Suesser asked if it was possible that Argent could redesignate its density among the property. Planner Ananth answered no. Chair Phillips asked if that was

stated in the Findings of Fact. Commissioner Suesser thought it would be redundant in the Findings. She only wanted to clarify that there was no possibility for construction plans to change and the density is reallocated, especially if they vote to approve this plat amendment. Planner Ananth reiterated that the applicant has used all their density and there is no additional density associated with this parcel. Regardless of whether or not it is additionally restricted as open space, it is still effectively open space. Planner Ananth agreed that it made sense to note that on the plat.

Mr. Fiveash asked if there was other density in the Flagstaff Development Agreement that could come back and dispute that statement. He noted that they used all the density allocated to them and the building is under construction and already sold out. Argent will not be changed, but he wanted to know if someone else could open up the Flagstaff Development Agreement and get density. Planner Ananth replied that the MPD would need to be renegotiated as an amendment to the MPD to increase the density.

Chair Phillips stated that the applicant was choosing to do this to their own property to potentially work with the neighbor. If something were to occur in the future, the Planning Commission could take a closer look at the impacts of a potential land swap. Having heard all the comments, Chair Phillips walked back some of his previous comments and concerns. He did not intend to be negative and only wanted to make sure everything was covered in the discussion.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council concerning 7677 Village Way Argent at Empire Pass Condominiums plat amendment, in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval for their consideration on February 25, 2021, with the given stipulation that the plat map restricts Parcel A to open space. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 7677 Village Way

1. The property was originally part of the Flagstaff Mountain Annexation and Development Agreement approved by City Council per Resolution No. 99-30 on June 24, 1999 and amended on March 2, 2007.
2. 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 for the annexation area.

3. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass (VEP MPD) (Pods A and B1) within the Flagstaff Mountain Annexation and Development area. The MPD (also known as the Mountain Village) was later amended to include Pod B2 (Montage and B2 East).
4. The Mountain Village (Pods A, B1 and B2) was approved for a maximum of 785 UE of multi-family (550 multifamily units) and 16 single family units. A maximum of 60 PUD style units (i.e. Belles, Paintbrush, and Nakoma) were approved as part of the overall multi-family units.
5. To date 770 UEs and 16 single family units have been platted and/or built including the Argent at Empire Pass Condominiums.
6. Constructed lodge style buildings include Shooting Star (Building 2), One Empire Pass (Building 5), Silver Strike (Building 6), Flagstaff Lodge (Building 7), Arrowleaf A and B (Buildings 8 & 9). Empire Residences (Building 3) and the Condominiums at the Tower (Building 1) are currently under construction.
7. There is sufficient density remaining within the VE MPD for the 27 units (32 UE).
8. 572 UE certificates of occupancy have been issued for the entire Flagstaff Annexation and Development area (Pods A, B1, B2, and D). According to the Annexation and Development Agreement, 15 AUE of affordable housing obligations come due for each 150 UE certificates of occupancy. The next housing obligation trigger point is 600 UE certificates of occupancy, when 60 AUE are required to be complete. As of now 105 affordable units are completed and have certificates of occupancy (89 units are off-mountain and 16 units are on-mountain).
9. As part of the Argent at Empire Pass Condominiums CUP 2.0 AUE (1600 sf) is required by the subdivision plat for this lot. The affordable units consist of an 815 sf studio and an 803 sf one bedroom unit designated as private area and can be sold as an affordable unit or used for long term rental to qualified workers consistent with the Flagstaff Housing Mitigation Plan and applicable housing resolutions.
10. On December 5, 2019, the City Council approved the Argent at Empire Pass Condominium Plat.
11. On December 23, 2020, the Planning Department received an application to amend the Condominium Plat to combine two units into one for a prospective buyer; and to subdivide the underlying land into two separate parcels.
12. The property is located at 7677 Village Way and is known as Lot 2 of The Village at Empire Pass North Subdivision, approved by Council on June 15, 2017.
13. Access to the property is from Village Way, a private street.
14. The property is subject to subdivision plat notes that require compliance with the Flagstaff Annexation and Development Agreement, approval of a Conditional Use Permit for each lodge building prior to issuance of a building permit, a declaration of condominium and a record of survey plat prior to individual sale of units, membership in the Empire Pass Master HOA, a 20' snow storage easement along the street frontages, water efficient landscaping, and various utility and maintenance

provisions.

15.No commercial uses are proposed in the building.

16.Based on the unit sizes, a minimum of 38 parking spaces are required when taking into consideration the 25% parking reduction required by the Flagstaff Development Agreement and MPD.

17.An underground parking structure provides 35 parking spaces, including 2 ADA spaces, as well as limited common storage areas for some unit. Four surface spaces are provided for a total of 39 parking spaces.

18.The application is in compliance with the location, density and affordable housing requirements of the Development Agreement as they apply to this lot, the VEP MPD approved in 2004, and The Village at Empire Pass North Subdivision Plat approved in 2017.

Conclusions of Law – 7677 Empire Way

1. There is good cause for this Condominium Plat Amendment.
2. The Condominium Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed Condominium Plat.
4. Approval of the Condominium 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 – 7677 Empire Way

1. All Conditions of Ordinance 2019-58 shall continue to apply.
2. 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 of the Plat.
3. The applicant will record the Condominium 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 request for an extension is submitted in writing and approved by the City Council.
4. Conditions of approval of the Village at Empire Pass Master Planned Development (MPD) and the Empire Residences Conditional Use Permit (CUP) apply to this Plat and a note shall be added to the plat prior to recordation referencing that conditions of approval of the Village at Empire Pass MPD, Village at Empire Pass North Subdivision, and the Empire Residences CUP continue to apply to this Condominium Plat Amendment.
5. All applicable recorded public utility and access easements shall be indicated on this

Condominium Plat Amendment prior to recordation.

6. Parcel A is currently restricted as open space, is not separately developable, and has no density associated with it. Any amendment will be processed in accordance with the Land Management Code in effect at the time of application.

5.C. 1271 Lowell Avenue – Master Planned Development (MPD) Substantive Modification – The Planning Commission will Consider a Substantive Modification to the King's Crown MPD to Amend Building D of the King's Crown Condominiums Plat to Reduce the Units from 12 to 11, Reduce the Parking from 22 to 21 spaces, Reduce the Limited Common Area Square Footage by 386 Square Feet, and Increase the Private Area Square Footage by 712 Square Feet.

Planner Ward stated that this item was the King's Crown MPD modification and the condominium plat amendment. She reported that the Planning Commission approved the entire Master Planned Development in 2018. The Kings Crown condominium plat was approved in 2019 for Buildings B, C, and D. Buildings B and C are under construction; however, there was a discrepancy in the information and exhibits included in the approval regarding the location of Building D, specifically where the southern boundary of that building would be located in proximity to properties across Lowell Avenue. Planner Ward stated that in order to clarify the discrepancy, the developer vacated and rescinded the Building D approvals and applied to modify the MPD approval and to amend the King's Crown condominiums plat.

Planner Ward stated that at the last meeting the Planning Commission determined that the modifications to the King's Crown MPD are substantive. She clarified that what the Planning Commission approved for Building D regarding the number of units, the square footage, and parking did not change. Planner Ward explained that the Staff recommended that this be reviewed as a substantive amendment because of the discrepancy between the exhibits. A minor MPD modification would a Staff approval. The Staff was requesting that the Planning Commission make a determination on the intent behind the MPD approval.

Planner Ward noted that the King's Crown project was located along Lowell Avenue. It was designed so the multi-unit dwellings are located next to other multi-unit dwellings, such as the Marriott Mountainside and the Lift Lodge Condominiums. The townhomes are near the Northstar Townhomes, and the single-family dwellings are across from single-family dwellings on Lowell Avenue. Planner Ward stated that other single-family dwellings are accessed off Rothwell Road, which is a private road.

Planner Ward reviewed the engineer's exhibits for the MPD approval. She pointed to a red line that was showing the southern boundary of Building D. Across Lowell Avenue to the left of the red line was the Lift Lodge lot. The engineer's exhibits showed that the southern boundary of Building D would be south of the Lift Lodge condominiums. Planner Ward presented the architect's exhibit and noted that the red line showed that the southern boundary of Building D would align with the Lift Lodge condominiums.

Planner Ward reported that at the meeting on January 27th the Planning Commission asked the applicant to submit additional exhibits. She presented one of the exhibits with a blue line that showed the southern boundary of Building D. Across Lowell Avenue to the north of the green line were the Lift Lodge Condominiums. Planner Ward pointed to an area which was Unit C of the Residences at King's Crown. The exhibit showed that the proposed location of Building D nearly aligns with the northern boundary of Unit C of the Residences at King's Crown.

Planner Ward noted that the applicant also submitted an additional exhibit showing the 3D Street Views. The top view showed Buildings D, C and B. The views below were specific to Building D.

Planner Ward stated that the Planning Commission must make a finding of good cause before making a positive recommendation to the City Council. Good cause is defined in the Code as providing positive benefits and mitigating negative impacts, and it is determined on a case-by-case basis. Resolving existing issues or preserving the character of the neighborhood are considered good cause.

Planner Ward stated that when the King's Crown Master Planned Development was approved in 2018, there were no findings of fact, conclusions of law, or conditions of approval that specified where the southern boundary of Building D was required to be located. To date, the Staff, the Planning Commission, and the City Council have reviewed subsequent plat approvals based on the applicant's engineer's exhibits that were included in the King's Crown MPD approval.

Planner Ward reported that the Planning Commission forwarded a positive recommendation for the King's Crown re-subdivision plat that includes the entirety of the King's Crown MPD, which occurred on the same day as the King's Crown MPD approval. Planner Ward noted that the re-subdivision plat establishes Lot 2 for the King's Crown Condominiums, and it includes the required setbacks on the plat. When this was approved, one of the findings was that it allows the development based on the MPD and CUP, which allows a significant portion of the site to not be disturbed and places development towards the base of the subject site.

Planner Ward presented the re-subdivision plat. The Staff recommended that the King's Crown re-subdivision plat be the standard by which the King's Crown Condominiums Plat Amendment is measured against. The Staff also recommended amendments to Findings of Fact 112 and 113, stating that the project was approved based on what was shown in the plat with the multi-unit dwellings towards the north of the development, the townhomes to the south, and the single-family homes where they are located.

The Staff recommended six conditions of approval to the draft ordinance to mitigate the impacts to the neighborhood. One of the conditions of approval reads, "The side setback along the southern boundary of Lot 2 is ten feet". The Staff was recommending a 12' setback so the southern boundary of Building D nearly aligns with the northern boundary of Unit C of the King's Crown Residences across Lowell Avenue. The other conditions of approval are as follows: that the Building D garage is as shown in the current exhibit; that boulder retaining walls along Lowell Avenue be installed; that the mid-stair planter be retained; that the applicant submits a landscape plan that sufficiently complies with what is shown in the additional exhibits with species that comply with the Code.

Planner Ward stated that in the update exhibit there is a 10' public access easement along the southern boundary of Building D. The landscaping plan has landscaping in front of the public access stairs. What is being proposed is to take the stairs below the blue line to expand the public access easement and shift the stairs to the north of the blue line. The landscaping would be as shown on the exhibit. Condition of Approval 8 would require the applicant to expand the public access easement and to relocate the lower portion of the stairs to the north of the blue line. Also, because there will be two stairs fronting Lowell Avenue, one accessing Building D and the other a public easement, one of the conditions of approval requires signage to be installed in compliance with the Sign Code at the base of the public access easement to notify the public of that access to the ski run.

Planner Ward stated that if the Planning Commission determines that the re-subdivision plat is the standard for the condominium plat amendment proposed, the condominium plat amendments are minor in comparison to what was approved in 2019. It is a reduction in units from 12 to 11, reduction in parking from 22 to 21, reduction in the limited common area, and an increase in the private area by 712 square feet.

The Staff recommended that the Planning Commission review the substantive King's Crown MPD modifications and consider amending Findings of Fact 112 and 113 and adding the conditions of approval 4 through 10 to the draft ordinance for the condominium plat amendment. The Staff also recommended that the Planning

Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council for the King's Crown Condominium plat.

The applicant, Rory Murphy, thanked Planner Ward for her work in sorting out this issue. He emphasized that the engineering location of Building D has not moved since the MPD was first submitted in 2017. That being the case, the applicant was willing to accept and agree to the amendment to the Findings of Fact 112 and 113, and the additional Conditions of Approval 4 through 10, including the additional 2' of recommended setback pertaining to Building D.

Chimso Onwuegbu, the project architect, reiterated some of his comments from the last meeting regarding the locations of building. He noted that 18 exhibits were submitted related to the locations of buildings, and it was only the diagrammatic plan that had any ambiguity. He emphasized that they have not shifted the buildings, changed the size, or changed the massing. Minor tweaks were made to windows and doors since the building was first designed, other than that, the building is the same as when it was submitted on day one.

Chair Phillips opened the public hearing.

The following people raised their hand on Zoom and were unmuted to comment.

Patricia Kravtin, a resident at 1240 Lowell, stated that the placement of Building D was very important to her. She and her husband own a single-family home directly across the street from where Building D will be built. They have been very involved in the process spending countless hours speaking with the developer and engaging in the public hearings because of the impact this will have on them. Ms. Kravtin stated that they have also submitted fairly extensive and detailed written statements that they respectfully request that the Planning Commission review and consider the points they raised regarding the placement of Building D and the mitigation of negative impacts of this massive project on them and their neighborhood.

Being respectful of their time, Ms. Kravtin intended to cover four major points. First, they would like to explain why this is so important to them and their neighbors. She pointed out that the Staff report and the developer had called their home a condo. She clarified that they live in a single-family home directly across from King's Crown. They are technically part of an HOA with two neighbors that sit below them because they share certain expenses. Ms. Kravtin stated that the suggestion or implementation that they are a multi-unit dwelling as a basis for finding mitigation or good cause is not correct. Ms. Kravtin stated that the construction of a massive project like King's Crown directly across the street has significant implications to their use and enjoyment of their

property as full-time residents, as well as the investment in their home. It impacts their mountain views, light pollution, noise pollution, health risks from transformers and other electrical devices going in across from them, traffic burdens, the large visual massing of this structure imposing over their home, the incompatibility of scale, use, architecture, and design with the neighborhood and the single-family homes, and invasion from the common space across from them. Ms. Kravtin understood, appreciates, and supports that landowners have a right to develop their properties. However, City Code also requires mitigation, and the most important mitigation to them, which they were promised and was documented very clearly on the record, clearing up the ambiguity in terms of lining up with the southernmost boundary of the Lift Lodge. She believed the design features, landscaping, and placement of utilities should be composed as conditions to mitigate the effect on the neighborhood and on their home, but they have yet to be resolved or addressed. Ms. Kravtin stated that they were working with the developer as they have over the past four years to resolve these issues and she thought they had solved the issue by agreeing to the southernmost boundary of Lift Lodge. She noted that Mr. Murphy represented very clearly on the record and in letters to them saying there was no ambiguity in that decision. Ms. Kravtin thought they were still making good progress, even after the applicant admitted that there was a plat error over the boundary. At that point, the developer cut off communications and appears to be backtracking on promises and assurances. Ms. Kravtin stated that as full-time residents this will affect them. She asked the Planning Commission to take into account the impacts this project will have on them and the investment in their home.

On the second point, Ms. Kravtin asked the Planning Commission to hold the developer to its word regarding the placement of Building D. It should align as promised with the Lift Lodge across the street. It was a critical part of the discussions with the Planning Commission from the very beginning with Planner Astorga. Ms. Kravtin remarked that it is true the placement of the south side of Building D did not make it into a written condition of approval, and the failure was an oversight on them and on the Planning Commission. They were not focused on it because the developer's promises and assurances were so clear. In addition, the developer said it on the record as further assurance. Ms. Kravtin stated that there were drawings from the developer, statements by Mr. Murphy in writing, and statements by Mr. Murphy to the Planning Commission. Mr. Murphy told them to trust that he would honor his word, and they did. They never imagined the developer would go back on their promises and turn it back on her. It is all in the record and the developer should be held to its promise, even if that condition did not make it into the earlier versions of the approval.

Ms. Kravtin stated that her third point is that there needs to be specific additional details in the conditions of approval. Prior assurances and promises did not make it into the

previous approvals and they should be added. They proposed specific language in their current comments that she believed was appropriate to give that specificity. She asked that the City not to make that mistake again by accepting conditions of approval that are not specified. She was concerned that they were poised to do that again.

Ms. Kravtin noted that the builder had submitted one drawing that incorporates the proposals currently under review. The picture was submitted on page 380 of the Staff report as AS20. Ms. Kravtin stated that the builder also submitted another drawing depicting what was proposed to be built. That picture was labeled AS21 on page 381 of the Staff report. She thought page 381 gives a better graphic depiction of what the developer was proposing to build and included landscaping and other design features. Ms. Kravtin thought the picture should be incorporated in the findings and conditions but clarified for ambiguities and discrepancies. As Planner Ward pointed out, the most gaping discrepancy is that it shows trees blocking what appears to be the entrance to the public access stairway. Ms. Kravtin hoped it meant the stairway would be shifted to the north providing visual mitigation; however, that could not be determined clearly from the diagram or even from the additional redline language that Planner Ward added to the proposed conditions. Ms. Kravtin stated that it still did not provide the specificity as to where it will line up exactly, and it does not appear to be moving north enough towards Lift Lodge to provide the promised mitigation.

Ms. Kravtin referred to the preliminary utility plan on page 382 of the Staff report. She believed that diagram showed another inconsistency in the location of the southernmost boundary of Building D. It was slightly further to the north, but well short of the Lift Lodge, and it still lines up in the face of their home. Ms. Kravtin stated that since this diagram would be used as a reference to the siting of a transformer and other electrical equipment, even small discrepancies in where these utilities are sited could have significant health repercussions. Given their pre-existing medical conditions, she was especially concerned about the health risks from these electrical devices that are not marked to be properly shielded from potential electromagnetic radiation.

Mr. Kravtin stated that her fourth and final point was to ask the Planning Commission to take the time to consider these resubmissions and not rush the process. She noted that the developer made the decision to withdraw its prior application and start from scratch to give everyone the chance to participate and make their concerns heard. She did not think that was happening. They felt like the developer was trying to shoehorn prior approvals into the process even though they said they would be starting from scratch. Ms. Kravtin remarked that at the last meeting the Planning Commission determined that this application was to be considered a substantive modification in light of these discrepancies. These are not minor discrepancies because they remove the promised

mitigation. She thought the Staff report was a step in the right direction by clarifying and proposing additional, more detailed conditions of approval on page 374 of the Staff report, but she did not believe they went far enough. They only had a few days to review them and the Planning Commission will not have the time to press the developer and the architect for more details. Ms. Kravtin pointed out that the developer has had months to resolve these ambiguities and come up with proposals that do not show trees in front of stairways.

Ms. Kravtin had many more questions but would not take the time to present them other than to say that they still do not know the exact boundary in terms of every level of the building, and where the boundary would align with their house relative to every floor. They do not know the exact nature of the landscaping in terms of height and quantity, and they do not know about the placement of utilities. She remarked that other neighbors also have concerns about the design of the stairway. Ms. Kravtin urged the Planning Commission to take the time to get the answers they need to properly analyze the proposal, and to have drawings that are clear and make sense. She asked them to clear up the ambiguities and make sure the mitigation they were promised is provided for them and their neighborhood. Ms. Kravtin thanked the Planning Commission for their time and attention to this pressing matter.

Alana Stein stated that she and her husband live at 1232 Lowell next to the Patton Johns residence to the north. The development is directly across from them and their house has received a single-family home in front of them. She thought that was an interesting placement because now they have garages and additional cars parked and additional people partying and moving in and out. They have had an interesting influx of new neighbors. Ms. Stein wanted to give their perspective of neighbors who have lived through the construction and have seen the new residents moving in. Ms. Stein attended several of these meetings over the last few weeks and she has enjoyed the conversations. She was trying to understand how the process works in terms of what they are supposed to encourage across the street and what they should oppose. Ms. Stein was still confused as to what the new building will look like. They would like the building to be a smaller size, but she was unsure whether that was up for discussion. It is the largest building in the development which causes concern. They want it to look and feel like it is part of the neighbor, and she was concerned that it will look like the biggest thing on the street. She encouraged the Commissioners to talk the street and see what it looks like. Ms. Stein referred to a project they discussed earlier this evening and their comments about height restrictions when the building is going up the hill. She believed this was the same situation. The building goes up the hill and towers over the street. Ms. Stein liked the idea of having houses across houses, stairs across stairs, and condos across condos. If there is overlap, she would like to understand why there is an overlap and why the building is moved more to the left or more to the right if it to

the detriment of the neighborhood. Ms. Stein stated that overall, she would like this project to be over as fast as possible. The traffic and the machinery have been horrible. She understood the developer has done what they could, and it was not their fault. However, she was very interested in having the construction end as fast as possible with minimal impact to the street and their neighborhood so they can start enjoying their property again. Ms. Stein would like to see visually exactly what it will look like when the project is completed rather than just a sample image. She suggested a visual as if they were taking a photo to show how it actually conflicts with what is across the street and to the left and to the right.

Connee Rasmussen stated that she is a resident at 1243 Empire Avenue, and she shares the private stairway that connects Empire to Lowell Avenue. Ms. Rasmussen attended the first meeting of the King's Crown Development and she thought everything was going well. She was going off the 2017 design where they showed a double-wide public access stairway with staggered, hardscape planters that she thought helped mitigate the problem with erosion of that steep hillside. It would also accommodate the public going up and down the stairs with skis in ski boots and being able to pass each other. Ms. Rasmussen clarified that she was going off the 2017 design and was not aware until the end of 2020 that it had changed, and the developer was going to expand Building D to the south and it would not align with the boundaries of the Lift Lodge. Ms. Rasmussen echoed comments from the others that the neighbors really do not understand what is going on. In looking at the submitted design AS021, the public stairway, which is her concern, is completely blocked by the faux computer landscaping. She was unable to see from that drawing what exactly will be there. It does not show the public access or how close or how wide. Ms. Rasmussen was concerned with knowing the boundary for Building D and whether it aligns with the Lift Lodge. She also had concerns with the public stairway and how they will handle the soil erosion. She asked if it would be wide enough for the public to go up and down because it is a long, extensive stairway. She wanted to know how they would retain the soil and what the landscaping will look like. Ms. Rasmussen remarked that her concerns were not clear in the drawings that were submitted. She requested that the Planning Commission ask for additional drawings. She suggested eliminating the full landscaping and do a true landscaping design so the neighbors and the public can understand what the developer is requesting when they are changing from their original design proposal.

Chair Phillips closed the public hearing.

Mr. Onwuegbu noted that page 382 of the Staff report was referenced as the current design. He explained that the document was actually submitted to show the original design. He believed there was some misunderstanding about what those stairs ever

were. Mr. Onwuegbu pointed out that there are only two small jogs in that stairwell. The majority of it remains exactly how it is now.

Mr. Onwuegbu clarified that the document they submitted was the originally approved drawing to show what has and what has not changed. The gray color represents the stairs. The only thing that changed in the existing design were four risers that occur mid-stream. The last stair shifts over slightly and is similar to what it was originally. Mr. Onwuegbu noted that they showed the transformer because the transformer, which was originally approved in the location directly across from the neighbors across the street, was actually moved next to the driveway in the existing design. Mr. Onwuegbu remarked that the public keeps talking major changes that are being made to the design, and that they relocated the building and changed the stairs. He clarified that they only made a slight adjustment to the stairs and moved the transformer further down the street. Mr. Onwuegbu wanted to clear up any confusion in terms of the original design versus the current design.

Commissioner Thimm referred to page 380 and asked about the width of the stairway. Mr. Onwuegbu replied that it was an 8' stairwell. Commissioner Thimm clarified that people could pass each other on an 8' wide stairwell. Mr. Onwuegbu answered yes. Commissioner Thimm understood that the transformer was moved to a different area rather than where it was originally placed. Mr. Onwuegbu replied that it was moved further to the north. Commissioner Thimm asked about the green at the base of the stairway. Mr. Onwuegbu stated that before the stairs were shifted and now there is a sidewalk. He noted that one tree needs to be removed. The sidewalk will connect from the existing sidewalk along the road to the stairs. Commissioner Thimm clarified that the greenery showing at the base of the stairs is no longer there and there will be a sidewalk.

Planner Ward stated that the conditions of approval were drafted with the understanding that the stair would move to the north of the blue line, that the landscaping highlighted in red would remain, but the public access easement would be extended, and the lower stairs would be shifted north of the blue line. Mr. Murphy replied that she was correct.

Commissioner Thimm asked if the exhibits still needed to be updated based on Planner Ward's comments. Planner Ward stated that the condition of approval was written based on the exhibit showing, and it clarifies that that portion of stairs are shifted to the north of the blue line. The landscaping shown will extend to where the stairs are currently illustrated on the exhibit. Commissioner Thimm understood that the blue line was the south edge of the stairway that extends to the street. Planner Ward answered yes. Commissioner Thimm stated that a major part of the discussion in this proposal

has been accuracy of exhibits. He did not support moving ahead based on the exhibits presented.

Commissioner Kenworthy asked for the width from the blue line to the south property line. Mr. Onwuegbu replied that it was over 12'. Commissioner Kenworthy wanted to know the width of the landscaping block after moving the staircase. Mr. Onwuegbu replied that it is a 25' front setback plus another 12' to the sidewalk. The landscaping would stop 20' from the property line. Commissioner Kenworthy understood that there would be a canvas of 12' x 20' feet within their property. Ms. Onwuegbu replied that he was correct.

Mr. Murphy clarified that after their exhibits were already submitted, they were asked to move the stairway to further mitigate the impact of the stairs. He understood that the Commissioners would like to see that demonstrated, but he wanted the Planning Commission to understand that they agreed to the condition to address the concerns of the Staff and the neighbors.

Chair Phillips agreed that it was important to make sure the exhibits are accurate. He suggested that if the Planning Commission takes action this evening the final exhibits could be done prior to going to the City Council.

Chair Phillips noted that everyone has been focused on the one side of Building D. He asked to see the setbacks on the north side of Building D between the buildings. Planner Ward showed the recorded plat. Chair Phillips thought there was 20' between Buildings D and C. Mr. Onwuegbu stated that depending on the section, there was 13' to 15' between Buildings B and C and Building C and D.

Commissioner Thimm asked if all levels of Building D observe the 12' setback. Mr. Onwuegbu replied that it goes to almost 17' on the upper two levels. He clarified that they were observing the 12' setback.

Commissioner Suesser commented on the public access easement and the stairs. She referred to an earlier statement that the stairs were 8' wide; however, she thought the stairs were 10' wide as part of the revisions. Ms. Onwuegbu replied that 12' was the setback requirement, not the stair requirement. He explained that the easement itself is 10' and there are planters inside part of it. The bottom stairs are narrower and from bottom to top the stairs range from 6' to 8' in the current design. Mr. Murphy stated that the stairs are slightly larger than a typical set of Old Town stairs.

Commissioner Suesser recalled that Planner Ward had said the stairs provide access to the ski run. She asked if the public would have access to the elevator and up the stairs,

or whether it was only access to Rasmussen Road. She pointed out that there is no ski access without taking the lift up to the ski run. Mr. Murphy stated that there is a set of public stairs on the side of the building up to Rothwell Road, and then from Rothwell to the ski run.

Commissioner Suesser asked if Mr. Onwuegbu had a picture looking up or down Lowell to help get a sense of the alignment of Building D and the homes across the street on Lowell. Mr. Onwuegbu stated that what brought them back to the Planning Commission was the use of an aerial photo that was slightly skewed and when they set the building on there it showed it not aligning. It was that image that caused all the confusion.

Chair Phillips thought the Planning Commission had spent sufficient time on this and he was comfortable with moving forward, with the exception of making sure the exhibits that need updating are revised. He thought it was clear that the building has not moved in location. Chair Phillips remarked that the applicant did a lot of work and attended multiple meetings to make their intentions clear. He did not believe the changes were substantial from what was originally proposed and approved, and he thought the changes of reduced parking, reduced density, and more community space were positive. Chair Phillips appreciated the public comments and he assured everyone that the Planning Commission understands the impacts and the importance of this project to the neighbors. They were listening to the public, which is why they had several meetings and public hearings. Chair Phillips clarified that the Planning Commission was not looking at the entire project as a new application. They were only looking at a few modifications and some corrections to what was previously approved.

Commissioner Thimm was comfortable moving forward this evening, but he did not believe they should reference the inaccurate exhibits. He asked if the conditions of approval could be modified to indicate that the stairway that leads up from the street shall observe a 12' setback from the southerly property line. He also recommended adding a condition of approval that requires the transformer to be located further to the north where the applicant indicated that it would be placed.

Mr. Onwuegbu noted that the transformer was already in place and located down off the driveway. Mr. Murphy agreed to the condition stated by Commissioner Thimm.

Commissioner Suesser asked if the re-subdivision plat indicate the public access easement up the chairs to the ski run. Planner Ward answered yes and pointed to the location of the 10' wide public pedestrian access easement in Lot 2. Commissioner Suesser understood that it goes from Lowell up to Rothwell, but after reaching Rothwell

people still need to get to the ski run by going up the stairs around the elevator tower. Mr. Murphy replied that she was correct.

Mr. Murphy clarified that regarding Commissioner Thimm's request condition, the applicant would agree that the front part of the stairs would be 12' offset from the property line. The rest of the stairs would follow the property line. Commissioner Thimm agreed, and the condition should be worded to reflect that.

Commissioner Kenworthy stated that it is not a perfect world and he appreciated the applicant's honesty in the last meeting when asked if he misspoke at one of these meetings. They also admitted that the one exhibit misrepresented the actual position of the property on the south end. The applicant made it very clear that the other 17+ exhibits indicated the correct positioning of the building and Commissioner Kenworthy found that the building had not moved. In addition to their honesty, he appreciated the numerous attempts the applicant made to mitigate. There are many options, and everyone needs to compromise and look at the realities of the options before them. Commissioner Kenworthy believed the mitigation efforts as stated are sufficient and was the best compromise going forward with this project. Commissioner Kenworthy referred to a public comment about timing. He commented on the length of time to construct these projects. The narrowness of the streets in Old Town make life difficult, and whether it is a single-family home or an MPD, they all want to make sure it moves forward as quickly as possible to lessen the pain to the neighbors, as well as the extended community who experience truck traffic blocks away. Commissioner Kenworthy was comfortable with the compromises and he was ready to move forward.

Commissioner Thimm asked if Mr. Onwuegbu could come up with a dimension off of the right-of-way line where the stair would actually jog back towards the south to include in the condition of approval. Mr. Onwuegbu was not able to come up with an exact dimension off of the right-of-way, but he did have the dimension off of the property line. He stated that the beginning of the stairs is 12' off the property line and it goes 14'11" to where it jogs to make a five-foot landing before it turns up to the rest of the stairs.

Commissioner Thimm suggested revising the language in Condition #8 to add "within the setback from Lowell Avenue to relocate the lower portion of the stairs to the north of the 12' setback from the southern boundary of Lot 2, allowing the stairway to be offset to the south at a point 14'11" from the right-of-way line". He believed that language matched with the diagram Mr. Onwuegbu generated. Mr. Murphy suggested "from the right-of-way line along Lowell" for more clarity. Commissioner Thimm concurred. Mr. Murphy agreed with the condition of approval as revised.

Commissioner Suesser wanted to confirm that the public access easement is a 10' wide public access easement along the stairs along the south side of Building D. She noted that pedestrian connections are part of Criteria F in the Staff report. Commissioner Suesser could not find where 10' wide was specified in the conditions of approval. Planner Ward clarified that it was a requirement through the underlying plat on Lot 2. She offered to add clarification regarding the pedestrian access. Mr. Murphy agreed to that as well.

Commissioner Kenworthy asked if it would be year-around access. Mr. Murphy answered yes.

To address Commissioner Suesser's concern, Planner Ward added Condition #11 to read "The 10-foot-wide public access is required to be retained along the southern boundary of Lot 2".

Commissioner Kenworthy asked for the height of the trees and plants that will go in the 14'11" x 12' space. Mr. Murphy stated that they would put in whatever height trees the Commissioners would like. Commissioner Thimm suggested a minimum caliper of two inches for the deciduous trees. The evergreens should have a minimum planted height of 15'.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council concerning the substantive King's Crown Master Planned Development modification based on the Findings of Fact, Conclusions of Law, and the Conditions of Approval as amended for their consideration on February 25, 2021.

Planner Ward stated that the MPD modification is a Planning Commission determination. She requested that they approve the modifications to Findings of Fact #112 and #113 in a separate motion and then forward the recommendation specific to the condominium plat to the City Council for their consideration based on the conditions of approval in the draft ordinance and amended.

MOTION: Commissioner Thimm moved to APPROVE the King's Crown Master Planned Development amended MPD to amend Findings of Fact #112 and #113 as reflected in the Staff report. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the King's Crown Condominiums Plat Amendment for the City Council's consideration on February 25, 2021 based on the Findings of Fact,

Conclusions of Law, and the Conditions of Approval as amended. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – King's Crown Plat Amendment

1. On January 10, 2018, the Planning Commission approved the King's Crown Master Planned Development and Conditional Use Permit.
2. The King's Crown Master Planned Development is a 32-Lot subdivision in the Recreation Commercial Zoning District that includes Single-Family Lots, seven townhomes on Lot 30, the King's Crown Workforce Housing Condominiums (Building A) on Lot 1, and the King's Crown Condominiums (Buildings B | C | D) on Lot 2. Over 11 acres are preserved as Open Space on Lot 32.
3. On February 1, 2018, the City Council approved Ordinance No. 2018-05, the King's Crown Re-Subdivision Plat (Summit County Recorder Entry No. 1091847).
4. On June 13, 2018, the Planning Commission ratified the King's Crown Development Agreement (Summit County Recorder Entry No. 1093392).
5. On May 22, 2019, the Planning Commission modified the King's Crown Master Planned Development and Conditional Use Permit.
6. On June 20, 2019, the City Council adopted Ordinance No. 2019-34, approving the King's Crown Condominium Plat for Buildings B | C | D on Lot 2 of the King's Crown Re-Subdivision.
7. There was a discrepancy in the information and exhibits presented to the Planning Commission as part of the King's Crown MPD/CUP approval. The discrepancy was specific to the King's Crown Condominiums Building D. An exhibit prepared by the Applicant's architect showed the southern boundary of Building D aligning with the southern boundary of the Lift Lodge Condominiums across Lowell Avenue. The exhibits prepared by the Applicant's engineer showed the southern boundary of Building D extending beyond the southern boundary of the Lift Lodge Condominiums. Staff did not identify this discrepancy prior to reviewing the subsequent plat approvals and based compliance of plats on the King's Crown MPD/CUP Findings of Fact, Conclusions of Law, Conditions of Approval, and the Applicant's engineer exhibits.
8. On August 12, 2020, the Applicant submitted a letter to the Planning Department requesting to vacate and rescind City approvals for Building D of the King's Crown Condominium Plat and engineering approval in order to amend Building D.
9. The Planning Commission reviews plat amendments according to the requirements of LMC § 15-7.1-6(B) and makes a recommendation for City Council action. The Planning Commission reviews the plat, taking the Master

Planned Development requirements into consideration.

10.MPDs provide design flexibility necessary for well-planned developments that are Compatible with the surrounding neighborhood.

11.The goal of MPDs is in part to ensure neighborhood compatibility. One of the required findings the Planning Commission must make when approving an MPD is that the MPD is compatible in use, scale, and mass with adjacent properties, and promotes neighborhood compatibility and protects residential neighborhoods and uses.

12.The King's Crown MPD/CUP was designed to locate Multi-Unit Dwellings near Marriott's Mountainside to the north and Lift Lodge Condos to the east. Building D of the King's Crown Condominiums is located across from the Lift Lodge Condos and the Residences at King's Crown, a three-unit condominium that is located between Lowell Avenue and Empire Avenue. (The Residences at King's Crown Condominiums are not part of the King's Crown MPD/CUP.

13.The proposed plat amendment:

- a. Reduces the total units within Building D from 12 to 11;
- b. Reduces limited common space by 386 square feet;
- c. Increases private area by 712 square feet; and
- d. Reduces parking from 22 to 21 spaces.

Conclusions of Law – King's Crown Plat Amendment

1. There is Good Cause for this plat amendment because the amended King's Crown MPD/CUP Findings of Fact 112 and 113 and Conditions of Approval of this Ordinance mitigate the impact of Building D on properties across Lowell Avenue.
2. The plat amendment is consistent with the Land Management Code.
3. Neither the public nor any person will be materially injured by this 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 – King's Crown Plat Amendment

1. The Applicant is responsible for compliance with all conditions of approval.
2. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with state law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
3. The applicant shall record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year, this

approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

4. The Building D garage entrance shall be as shown in Exhibit H, Current BLDG D Placement AS-020.

5. The Applicant shall install boulder retaining walls that front Lowell Avenue.

6. The Applicant shall maintain a mid-stair planter, shown in Exhibit H, Current BLDG D Placement AS-020.

7. At the time of Building Plan submission, the Applicant shall submit a landscaping plan that sufficiently complies with Current BLDG D Placement AS-020 with species outlined in the City's Wildland Urban Interface Code, with deciduous trees a minimum caliper of 2 inches, and the evergreens will have a minimum planted height of 15 feet.

8. The Applicant shall expand the public access easement at the base of the public access stairs within the Setback from Lowell Avenue to relocate the lower portion of the stairs to the north of the twelve-foot setback from the southern boundary of Lot 2, allowing the stairway to be off-set to the south at 14 feet 11 inches from the right-of-way line along Lowell Avenue according to the requirements of the City Engineer and City Attorney and shall include the expanded easement on the final plat to increase landscaping to mitigate the visual impacts to property owners across Lowell, as shown in Exhibit H, Current BLDG D Placement AS-020.

9. The Applicant shall install signage approved by the Planning Department in compliance with the Park City Municipal Sign Code at the base of the public access easement informing the public of the public access to the ski run.

10. The side Setback for the southern boundary of Lot 2 shall exceed the code required side Setback of 10 feet and shall retain a 12-foot side Setback.

11. The 10-foot-wide public access is required to be retained along the southern boundary of Lot 2.

The Planning Commission Meeting adjourned at 8:37 p.m.

Approved by Planning Commission: _____