

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JANUARY 27, 2021

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO: David Everitt, Deputy City Manager, Rebecca Ward Planner; Mark Harrington, City Attorney; Jessica Nelson, Planning Analyst

The Planning Commission meeting was conducted virtually via Zoom.

The public was able to submit eComments during the meeting.

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 18-2020, 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/public-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 except Commissioner Hall, who was excused.

ADOPTION OF MINUTES – January 13, 2021

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

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

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

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

David Everitt, City Deputy Manager, stated that the Staff was working diligently to prepare for Gretchen Milliken, to start next week as the City's new Planning Director. In an effort to provide her with the necessary information, if any of the Commissioners are interested in being involved and getting to know Ms. Milliken, they should contact Mr. Everitt.

Chair Phillips was interested in meeting her and stated that she could reach out to him as well.

Chair Phillips reported that in January 2020 he had asked the Staff to schedule a work session to discuss the Planning Commission's priorities, goals, and objective. That work session was very helpful and he requested that the Staff prepare another work session to revisit their goals and determine what they had accomplished on the list they created last year. Chair Phillips thought they had made a lot of progress and he would like to build on it. He also thought it would be helpful for the incoming Planning Director and new Planning Commission members to understand the Planning Commission's priorities. If the Commissioners had things to add to the list, they could bring their ideas to the work session or provide it to the Staff prior to the work session.

Chair Phillips stated that he listened to the last City Council meeting and Councilmember Henney had applauded the Planning Commission for their efforts in being proactive. He suggested that Goal #1 could be to continue to be proactive.

Commissioner Kenworthy requested that the Planning Commission be updated on the historic preservation efforts from Empire Pass in terms of funding, what was done, what was planning to be done for this ongoing historic preservation. Mr. Everitt offered to look into it.

Mr. Everitt stated that he had asked Brendan Conboy to prepare an informational document on Flagstaff MPD/Development Agreement. It is a mini-tentacle document that reaches into so many other parts of operations in the City and has implications for land use development outside of the City. At some point that will be coming before the Planning Commission as a work session education opportunity for the Commissioners, the public, and the Staff.

The Commissioners congratulated Commissioner Hall on her new baby girl.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

- 5.A. **1271 Lowell Avenue – Master Planned Development (MPD) Modification – The Planning Commission Will Consider (1) a Request to Amend the King's Crown Condominium Building D Plat and (2) whether the Proposal is a Minor or Substantive Modification to the MPD. The Applicant Proposes Reducing the Units from 12 to 11, Reducing the Parking from 22 to 21 spaces, Reducing the Limited Common Area Square Footage by 386 Square Feet, and Increasing the Private Area Square Footage by 712 Square Feet.**

Planner Rebecca Ward noted that this item was specific to Building D within the King's Crown condominiums. Within the Master Planned Development that was approved by the Planning Commission in 2018 there are 27 single-family lots. There are condominiums on Lot 1, Lot 2 has Buildings B, C and D condominiums, Lot 30 has seven townhomes, and Lots 31 and 32 are open space.

Planner Ward stated that the condominiums were planned to be located near Marriott Mountainside and across from the Lift Watch Condominiums and the residences at King's Crown, which are not part of the King's Crown MPD. Going up the slope are the

single-family dwellings that are across from the single-family residences on Lowell Avenue. The townhomes are located near the North Star townhomes.

Planner Ward reported that the applicant was proposing to amend the plat for Building D of the King's Crown condominiums to reduce the units from 12 to 1, to reduce parking by one space, and to reallocate some of the common area and private area. Planner Ward clarified that these minor changes comply with the LMC, the King's Crown MPD approval, and the prior plat approval. However, there is a discrepancy in the King's Crown MPD exhibits relating to Building D. To clarify the 2018 approval, the applicant was requesting that the Planning Commission determine whether the proposed plat amendment is a minor or substantive modification to the MPD. If it is a minor modification it would comply with the LMC, and the MPD approval, and it would be reviewed through a Staff level administrative permit. The Staff would review the minor modification and the plat would come before the Planning Commission on February 10th. If the Commissioners determine it is a substantive modification, the Planning Commission would review the modification and potentially change either a finding of fact or a condition of approval.

Planner Ward stated that because the Planning Commission reviews plats in consideration of the requirements and the approval of the MPD, which takes into consideration compatibility with the neighborhood and the surrounding properties, the Staff requested that the Planning Commission consider this a substantive amendment for clarification. Planner Ward reported that in the second work session, information was provided about the location of the Building D condominium, that the southernmost boundary would line up with the Lift Lodge boundary. In addition to the work sessions, the Planning Commission went through several public hearings and public meetings before the project was approved.

Planner Ward indicated the King's Crown Condominiums Building B and C across Lowell Avenue, and Building D. Across the street are the Lift Lodge Condominiums. She pointed to the residences at King's Crown, which is a three-unit condominium located between Lowell and Empire Avenue. She stated that the question regarding Building D is where the southern boundary was approved to be located. To provide context, Planner Ward pointed to the Lift Lodge Condominiums across Lowell Avenue and the King's Crown residences.

Planner Ward stated that when the Planning Commission approved the MPD there were two Findings of Fact stating that the project was designed to mirror the existing neighborhood development patterns, that the larger mass buildings are located adjacent to the larger buildings on Lowell, and the project homes mirror the east side of Lowell with the townhomes continuing the townhome pattern.

Planner Ward stated that the question comes from discrepancies in the exhibits that were approved. The engineering exhibits that were prepared show the southern boundary of Building D coming beyond the Lift Lodge Condominiums. However, the architectural exhibits show the southern boundary aligning with the Lift Lodge Condominiums.

The Staff recommended that the Planning Commission review the proposed plat amendment as a substantive modification to clarify the approved exhibits and to amend the Findings of Fact to establish the Building D approval, and to continue the discussion to February 10th to review this modification and the plat amendment. The Staff requested that the applicant submit exhibits showing the Building D plat amendment within the context of the properties across Lowell Avenue. This item was noticed for a public hearing.

Rory Murphy, representing the applicant, asked for a moment to acknowledge the passing of Bruce Erickson. He also congratulated Commissioner Hall on her new baby.

Mr. Murphy thought it was important to note that the location of Building D was entirely within the four corners of the Land Management Code. The concerns raised by the neighbors are the result of one exhibit out of 19 exhibits that were submitted with the MPD. The other engineering exhibits were correct. Mr. Murphy stated that because of those concerns, the applicant made an extraordinary effort to try to appease the neighbors despite having no legal or regulatory obligation to do so. Mr. Murphy noted that the neighbors have made multiple references to a 2017 agreement between the neighbors and the applicant, but there was never an agreement then and there is no agreement between them now. Mr. Murphy stated that in recent correspondence with the City, the neighbors submitted a copy of an email that was sent to Mr. Murphy stating, "We thought we were getting closer to reaching an agreement on how to resolve the situation". Mr. Murphy stated that despite three complete redesigns of the southern edge of the building, they were all rejected. The applicant came to the conclusion that they could not meet the neighbor's expectations and they would not consider what they believed were extraordinarily unreasonable demands that had nothing to do with the LMC.

Mr. Murphy stated that since they were unable to reach any kind of reasonable agreement, they withdrew the plat and scheduled this meeting with the Planning Commission to give the neighbors the unfettered opportunity to express their position and to explain why this applicant should be held to a greater restriction on setbacks than the LMC demands.

The project architect, Chimso Onwuegbu, presented the Exhibit that was in question. He noted that Mr. Murphy had asked him to go through the process from the start to where they are now. Mr. Onwuegbu stated that they started with several neighborhood meetings prior to submitted anything to the City. During the course of those meetings, it was suggested that they pull the condominium building back further north, which they did. He noted that north was the upper left of the drawing. Mr. Onwuegbu noted that the Staff report mentions 15 feet; however, 10' of that was pulled out before the applicant submitted anything to the City based on neighbor comments. He clarified that the building was moved north approximately 10' prior to submitted plans for the MPD. They also went through the MPD and the CUP processes without asking for any exceptions to the LMC. Mr. Onwuegbu recalled that there were no negative comments from the public during the process.

Mr. Onwuegbu stated that following that, they began meeting with the neighbors because they had design suggestions for the building, which included articulation on the south face of the building and on the southeast corner, which the applicant addressed and modified the building. The neighbors asked to have the driveway moved 40' to the north so it was not coming out in front of their homes. That modification was done as well. Mr. Onwuegbu stated that his office modeled the existing home in three dimensions and placed views in different areas to show them what the views from their home would be with the condominium building as designed.

Mr. Onwuegbu showed the exhibit that came up during the process, which shows the building lining up with the Lift Lodge. He pointed out several things related to the exhibit. One was a survey, which shows that King's Crown is designed and accurate based on that survey because they have the CAD drawings and everything to scale. It also showed the different lots across the street. Mr. Onwuegbu pointed out that the condo building is in the correct location in reference to the King's Crown building. He explained that the only part of the exhibit that was inaccurate and where the ambiguity lies was the overall of the Google image, which traced out the Lift Lodge. In looking at the exhibit, the Lift Lodge is shown further south than it is in reality. Mr. Onwuegbu stated that with that in mind, in 2019 Mr. Murphy asked him to redesign the building to bring it closer what the neighbors understood it to be. He emphasized that they went through three redesigns of the entire southern half of Building D. He initially suggested looking only at the top two levels Building D thinking that those levels would have the most impact on the neighbors across the street, and those were pulled back. The next redesign pulled back the bottom levels. By the time they were done, everything except the garage was pulled back to line up with the Lift Lodge. They resigned the entire front of the building, re-landscaped it, and changed the access from Lowell up to Rothwell Road so the stairs did not come down directly in front of the home. Mr. Onwuegbu

stated that after the last iteration, Mr. Murphy informed him that the changes were not enough for the neighbors and they were going back to the original approved plan.

Mr. Onwuegbu noted that Building D, as originally and currently submitted, is setback twice as far from the south property line as the Lift Lodge is from its south property. It is approximately 13' from the property line, even though the setback requirement is only 10'. He pointed out that Planner Ward had mentioned the additional residential area. Mr. Onwuegbu remarked that it was the result of adding an affordable housing unit, and it came primarily from common space. He clarified that transferring the additional square footage did not grow the massing of Building D.

Mr. Murphy stated that they were before the Planning Commission this evening because of the unintentional ambiguity. The entire process has been difficult with the neighbors. Mr. Murphy reiterated that for these particular neighbors they moved Building D ten feet farther to the north and they reset the stairs in front of their residence to maximize their view. He noted that the neighbors were very active in neighborhood meetings requesting specific changes. In addition, they redesigned the southern roof element to protect their view of Iron Mountain, the parking garage was moved 40' to the north so the lights would not shine into their homes, they did structural engineering, as well as the repair and installation of their driveway at no cost. They planted a tree in their front yard to screen the construction. They shut down the entire job site for a day and a half for their daughter's wedding. Mr. Murphy stated that to be in this position at this point in the project was more than discouraging and disheartening. He thought it was important to note that the engineering of this building has not changed at all since the submittal. Mr. Murphy noted that they have not and have no intentions of asking for a single exception to the LMC.

Mr. Murphy stated that he was willing to abide by whatever decision the Planning Commission made.

Chair Phillips asked if the plan on the screen was the same one the Planning Commission saw when they originally reviewed the application. Mr. Murphy stated that it was one of 19 iterations. Mr. Onwuegbu explained that the exhibit showing was originally created at the onset of the MPD to show that the compatibility of the project at a macro scale with the neighborhood. It was never intended to be relative to anything specific. Chair Phillips clarified that this was more of an illustrative exhibit, and all the engineering exhibits were properly placed.

Chair Phillips recalled the previous discussions regarding the shift, the neighbors concern regarding the headlights, the alignment of the stairs, and other issues. Chair Phillips understood that the 15' shift was done before the applicant submitted the

application to the City. He wanted to know the reason for the shift. Mr. Onwuegbu explained that two different shifts totaled the 15'. The first ten feet was prior to submission based on neighbor comments at two or three neighborhood meetings. The final five feet came after the submission and it was due to the road alignment that occurred at the very bottom of Rothwell Road. The Planning Commission wanted the road to line up with the center line of 12th Street, which pushed Rothwell Road approximately 5 additional feet north. When they did that it shifted the five lots to the north, which also pushed Lot 2.

Commissioner Suesser asked if the applicant had exhibits showing the proposed Building D in relation to the properties across the street on Lowell. Mr. Murphy stated that they went through the MPD submittal and 18 of the 19 iterations were correct. He offered to provide the original MPD submittal to the Commissioners. Chair Phillips understood that the focus was on one exhibit, but he thought it would be helpful to see some of the other exhibits as well. Mr. Murphy pointed out that Planner Ward had included one of the exhibits in the Staff report. Mr. Onwuegbu offered to find the exhibit Commissioner Suesser was requesting.

Chair Phillips moved to the public hearing while Mr. Onwuegbu looked for the exhibit. He informed the public that the Planning Commission was interested in hearing their comments, but the public hearing is not intended to be a discussion or to have questions answered. If anyone member of the public has a question when making their comments, the Staff and Commissioners will make note and those questions will be addressed after the public hearing.

Chair Phillips opened the public hearing.

The following people raised their hands on Zoom to make comments:

Patricia Kravtin introduced her husband Jonathan Horwitz. They reside at 1240 Lowell and they are the neighbors being discussed. Ms. Kravtin stated that she and her husband have been the most active in this process; however, she believed their issues reflect the good of the entire neighborhood. It was a quiet, small scale neighborhood that began south of the Lift Lodge. Ms. Kravtin remarked that they have been living and breathing this project for nearly three years. They have been waiting for almost a year to get the matter with Building D before the Planning Commission because of the difficulties they had with the developer when they reneged on promises made to the neighbors in 2017 and also stated on the public record during a Planning Commission meeting, that affects the mitigation of what is an incompatible building in terms of mass, scale, design, and compatibility with the neighborhood. Ms. Kravtin remarked that she and her husband have been fair and reasonable, and they were only looking to get the

appropriate mitigation for the impacts of this compatible structure on their property and the enjoyment of their home, and also for the neighborhood.

Ms. Kravtin stated that she and her husband participated in earlier meetings and their position was that according to the MPD and the CUP, as well as the theme of the developer, was that it would be like against like, homes across homes, townhomes across townhomes, and big mass buildings down towards the Resort. Ms. Kravtin stated that the developer keeps referring to their house as a condo, but it is a single-family home. They are designated as part of a three-unit condo because they share water, sewer, and a stairway with two other homes. She wanted it clear that their structure is a single-family home, and they are not a condo multi-use application.

Ms. Kravtin offered sincere condolences on Bruce Erickson's passing. They expected Mr. Erickson to see this matter to fruition as he did with other projects. It is very sad that he is gone. Ms. Kravitz recognized that the City has a great Staff who has been up to the challenge of this complex issue. She gave a shout out to Rebecca Ward for the outstanding and meticulous job she has done to bring this matter before the Planning Commission. Ms. Kravtin stated that it should have never come to this because there was an agreement on the record about the placement. She stated that in the Staff report and in many communications from Mr. Murphy there was no ambiguity. She read from page 15 of the Staff report, "The southernmost boundary building matches the southernmost boundary of the Lift Lodge". She did not believe that was ambiguous. Ms. Kravitz stated that as late as November 2019, Mr. Murphy states on the record and wrote to her, "I wanted to let you know that by I and the new Planner, Rebecca Ward, reiterated the position that we publicly discussed all along about aligning the southernmost edge of Building D with the southernmost edge of Lift Lodge. So maybe we meet with the engineer and Chimso to set the stake." Ms. Kravtin emphasized that this was not a matter of ambiguity. It is part of a negotiation that was brokered under the auspices of Francisco Astorga, who was the lead planner at the time, where the developer reached out to the neighborhood, and neighbors like them who did not want to be like the Treasure neighbors. They did not want to fight and litigate. They only wanted fair mitigation and they thought they had a developer that would work with them to come up with these agreements of mitigation to save the Planning Commission this protractive problem. Ms. Kravitz stated that they worked within the system and under the auspices of Mr. Astorga, who told them that it was fair and reasonable to line up their mass condo with the Lift Lodge. They have a house and she thought there would be a house across from them. In the spirit of negotiating and compromise and trying to avoid an adversarial discussion, they agreed to the Lift Lodge boundary and so did Mr. Murphy. She remarked that they had a very congenial relationship until things started to show that their plats and drawings were not lining up. Ms. Kravitz appreciated Commissioner Suesser's question because they have been seeking clarity themselves,

notwithstanding Mr. Murphy's repeated statements to the neighbors and on the record, that the building line up as shown in the schematic diagram. She thought there was a lot of confusion and a lot of different drawings through the record as to where it actually lines up. The drawings are all over the place, but they know what the words say and what they agreed to. They indicated their support for this project at the November 2017 meeting, and their support for the project was noted in the January 2018 meeting. At that time, it was said that the abutter and the developer have reached an agreement. Ms. Kravitz stated that there are so many points of reference that talk about their agreement about the boundary. It was not ambiguous, and it was also not just to get something unreasonable. Ms. Kravitz invited the Commissioners to Lowell Avenue to look at the construction and the nature of the MPD. It is very dense and very massive. All the development is pushed down toward the residential neighborhood at Lowell. They were seeking a small but significant buffer between the residential homes and the big mass stack condos that have no compatibility with the existing residential scale, quality, and design of the neighborhood. That was all they were seeking, and it was what they were promised. She believes what happened is that somewhere along the way the developer discovered that the plats filed with the City did not line up with the Lift Lodge. The developer admitted to the error when they met with the neighbors on site the first week in December. They said at the time they would fix it and they never indicated any concerns about the agreement to line it up, or that the neighbors were being unreasonable in any respect. Ms. Kravitz felt that in his comments this evening Mr. Murphy painted an unfair timeline and narrative of their relationship with the developer, what they were asking for and what they were given. She could go through each item with documentation that undermines most of Mr. Murphy's and Mr. Onwuegbu's statements. The things they say were provided were things either the neighbors had not asked for, offered to pay, or actually do not mitigate against Building D. Regarding her son's wedding, she only asked that they try to clean up the mud around her house and try not to take out any more trees. Ms. Kravitz wanted the Planning Commission to understand there is another side to the narrative, and she was sad that Mr. Murphy felt the need to present a different view of her and her husband. Mr. Murphy and Mr. Astorga both told them they were being fair and reasonable in terms of their rights for mitigation.

Ms. Kravitz believed the record before the Planning Commission was ample to support an immediate finding that the developer should be held to its unambiguous representations to the neighbors and to the Staff and on the public record. Ms. Kravitz deferred to and respect the Staff's analysis, that the Planning Commission continue this discussion to February 10th, and that the amendment and proposed plat concerning Building D be treated and reviewed as a substantive modification in light of these revealed discrepancies and also the good cause for approval that must be found. Ms. Kravitz had a few points of clarification with the wording of the Staff's recommendation

that she thought was important to raise and for the Planning Commission to address in its determinations this evening. With respect to the wording of the Staff's bolded recommendation on page 61 of the Staff report, she believed that the discrepancies that must be resolved in the establishment of good cause is not just a matter of exhibit discrepancy. She believes the review needs to go fuller and deeper to resolve the discrepancies between clear statements Mr. Murphy made on the public record, to the Staff and in communications with the neighbors. Ms. Kravitz referred to the Staff recommendation on page 62 of the Staff report that asks the applicant to submit exhibits showing where Building D actually locates relative to her property. She would like that expanded to ask the applicant to clarify the other mitigations promised, particularly the aesthetic design of the stairway and softening of the mass. In addition, she would like the Planning Commission to recognize that the applicant rescinded all approvals. In the process of further deliberation of Building D, she asked that the developer understand and that it be confirmed on the record, that they cannot build until all the issues are resolved. She was concerned that the developer was proceeding with grading of the hill and possibly pre-construction activity.

Dar Rasmussen stated that he and wife Connie are long time residents of Park City. They are currently owners of one of the houses in the King's Crown development and they face Empire Avenue. Mr. Rasmussen stated that his primary concern is when he looks at the map that was shown this evening, he did not think it was ambiguous whatsoever. He would like to see what the proposed map for the proposed change looks like compared to what was shown this evening with the same format. One showed the south border of the King's Crown development consistent with the south border of the Lift Lodge. It also showed a stairway that he thought looked aesthetically pleasing. Mr. Rasmussen shared Commissioner Suesser's concern and he too would like to see an equivalent map that shows the proposed change. He believed that was the only way to tell for sure whether it is a minor or a major change.

Connie Rasmussen stated that a picture is worth a thousand words. She has not been involved before now, but she remembered seeing a drawing that showed a double-wide beautiful staircase with landscaping. Now it seems things have changed. The building has moved farther up the hill and the applicant was asking to narrow the staircase and eliminate some landscaping. She thought that was a wrong choice. They need to soften those large condominium buildings so the neighbors that have single-family homes are not overwhelmed by this mass building. Ms. Rasmussen stated that if the applicant was asking for something that is so minor, why has it changed so significantly. Ms. Rasmussen requested that the builder and the architect present exactly what the changes are and how the landscaping is going to be changed because that was a significant request by the neighbors to soften Building D so when they come up their staircase, they can look at something equally done as well. Ms. Rasmussen stated that

the original drawings she saw were beautifully done and showed that. There is a major change going on that the Planning Commission needs to address.

Jana Potter stated she was trying to get arms around what was significantly changing from what they thought they were getting, and how much of an actual impact it would make. Ms. Potter asked if something was lost through this situation in terms of the alteration or how the alteration was achieved. She understood what they were thinking, but at the same time she also understood how this property has brought a condensed development and utilized a small portion of what the developer could have used. Ms. Potter thought the developer had done a spectacular job in what they provided the community. She believed it would be an iconic project that all the neighbors would be proud to have around them. Ms. Potter stated that her question relates to what type of damage is caused or what was being altered to cause the problem, aside from the fact that people knew a development was coming. She has had the opportunity in working with Mr. Murphy, who is stellar in his attempt to work with every citizen or anyone who has a question about something going on in an area where he is building. She has witnessed it firsthand many times. Ms. Potter looked forward to hearing how they can come to a solution and make everyone happy.

Chair Phillips closed the public hearing.

Mr. Onwuegbu was unsure exactly what Commissioner Suesser was looking for when she requested to see a drawing; however, he had a few documents to show to help answer her question. He presented the actual engineering drawings that were submitted and approved. One was the project scope document that basically broke at a macro scale showing the workforce housing, condos, lots, and townhomes. Mr. Onwuegbu clarified that these were the official drawings that were approved as part of the MPD. He indicated the site plan and the grading plan. He indicated the property line and the driveway of the King's Crown residences across the street. He noted that the building sits essentially where it sits today. Ms. Onwuegbu remarked that he keeps hearing that the building has moved; but the building itself has never moved. It has always been where it is now. A single exhibit inadvertently showing the Lift Lodge further south was the only thing that was different with just the overlay. The building itself has always been placed where it is. Mr. Onwuegbu presented a few different exhibits that were part of the MPD that showed the building location and that it did not move.

Mr. Onwuegbu addressed the comment regarding the design of the stairs. He pointed to a center run of stairs with a small planter on the side of the stairs as it comes up. The stairs go all the way up with a couple more planters at the upper end. Mr. Onwuegbu stated that in working with the neighbors some changes were made to the stairs

because they had concerns about the mass they were looking at. He noted that there was still a planter on top, but instead of having the run of stairs that was essentially shifted over the six feet with another small planter, they turned the entire area between the stairs into a large planting area, with the exception of the easement for utilities. Mr. Onwuegbu point out how the landscaped area provides a screen of the building, which is more shielding than having a single tree sitting at the front of the stairs. He clarified that the only change is that there is no longer a small planter and instead there is a patio space. The building itself did not move closer. It just turned from one planter in that location into a more continuous patio.

Chair Phillips understood that they were using the same space, but the stairs are now aligned and not staggered. Mr. Onwuegbu replied that he was correct. Chair Phillips asked if the patio space wraps around the building to the one planter along the stairs. Mr. Onwuegbu pointed to an actual egress pathway from the units.

Commissioner Thimm asked if it was possible to show a split screen showing the plan that was approved so they could compare it with the current image. Mr. Onwuegbu was able to show both images and explained what they had done to change the stairway and create the planter area. Commissioner Thimm asked if the change was made in response to coordination with the neighbors. Mr. Onwuegbu answered yes. He indicated the change that was specifically made at the request of the neighbors across the street. They wanted more shielding so they were not looking at the lower level of the building. He drew a line to show that what occurs still lines up with the building and that the building was not moved.

Commissioner Suesser thought the last slide Mr. Onwuegbu had shown was helpful in showing that the building was not moved. However, she understood that the expectation of the neighbors was that Building D would sign up with the south lot line of the Lift Lodge. Commissioner Suesser asked if the slide on the screen was showing the faulty slide that showed it lined up. Mr. Onwuegbu answered yes.

Chair Phillips asked if Mr. Onwuegbu had a satellite view that did not have anything transposed over the top. He wanted to look at the satellite view versus the illustrative exhibit. Mr. Onwuegbu presented the satellite image.

Commissioner Thimm asked Planner Ward if there was a finding of fact or conditions of regarding alignment with the Lift Lodge. Planner Ward answered no and stated that it was one of the reasons why the Staff was asking for clarification. The only statement about the alignment was in the public record from the meeting Minutes. Planner Ward clarified that there is a discrepancy between the exhibits, but there is no finding of fact or condition of approval that specifies the location of Building D. Commissioner Thimm

understood that it was represented in verbal presentation. Planner Ward replied that it was in verbal presentation and through the architectural exhibit where the plats were not shown. She explained that the engineering exhibits were not always shown in the context of Lowell Avenue, but the architect's exhibit did show alignment.

Commissioner Suesser asked if the architect's exhibit that Planner Ward referenced that shows the alignment was the slide the Planning Commission had just seen. Planner Ward stated that the slides she shared in her presentation were from the exhibits that were approved. She noted that all the exhibits were linked in the Staff report. Planner Ward stated pulled up the architect's exhibit that was in question that was shown to the Planning Commission on the date of approval in 2018. She presented an engineering exhibit that showed the context of the properties across Lowell. Planner Ward remarked that the engineering exhibits are consistent and show the southern boundary south of the Lift Lodge Condominiums.

Commissioner Thimm referred to the exhibits with the red lines and asked if those red lines existed when the exhibits were previously shown to the Planning Commission. Planner Ward replied that the red lines were added for this presentation to clarify the alignment.

Commissioner Suesser referred to the language that describes Exhibit U4 extending south of the southernmost boundary of the Lift Lodge Condominiums and asked if that language added today or if it was in the Exhibit U4 that was previously presented. Planner Ward stated that the exhibit were attachments to the Staff report. There were no details in the Staff report regarding Building D specifically. In researching this, the information they have is through the exhibits that were attached to the approvals, the meeting Minutes, and the Staff reports. Planner Ward reiterated that the Staff report did not specifically address the Building D location at the time of the King's Crown MPD approval.

Commissioner Suesser asked whether Planner Ward could share the Minutes where the alignment was stated in verbal presentation. Planner Ward replied that the Minutes were included in the Staff report. The information was also presented in the first two work sessions on this application. She noted that the language was pulled from the meeting Minutes and included in the Staff report. The link to the minutes was also provided in the Staff report.

Planner Ward clarified that the Staff was not asking for any determination on the plat or a recommendation for approval this evening. They were only asking the Planning Commission to determine if this was a minor modification, and if that is the case, the Staff would do an administrative permit and re-evaluate the context of the approval and

the plat amendment within the approval. If they determine that it is a substantive amendment, it will come back to the Planning Commission on February 10th for a determination and review of the plat.

Chair Phillips understood from the Staff report that the Staff recommendation was a substantive amendment. Planner Ward replied that he was correct. They were also recommending that the Planning Commission amend the findings of fact so it is very clear moving forward on approvals for this site.

Commissioner Kenworthy noted that the neighbors thought the comments made on the record indicated that the two building would line up. He asked if the developer agreed that the comments were made on public record indicating that the two building would line up. Mr. Onwuegbu stated that from an architectural perspective, when they submitted and discussed the alignment of the project with the neighborhood, they were always discussing at a macro level that the development would continue the patterns of the existing neighborhood as opposed to anything specific. The design team always looked at this from a neighborhood perspective, not an individual lot or individual perspective.

Mr. Murphy stated that the ambiguity of the one exhibit was brought to his attention by the neighbors. He had no reason to believe it was inaccurate. In looking at the drawing itself, the planters, the balconies, and the stairs on the other side, it was their general belief that they were lining up. They abandoned the plat and opened this up again because it was not clear. Mr. Murphy noted that he was quoted in two statements. One is that it would line up, and the other is that the building would be moved 15'. He stated that they did move the building 15' from where it was originally placed. The other issue was whether or not it would line up, and he thought it did. Mr. Murphy acknowledged that he did misspeak, and he was not going to deny it. However, the mistake was not intentional and that is what this clarification is about.

Chair Phillips stated that there were a lot of exhibits that show the building has not changed. The other exhibits are engineering drawings that are actual drawings and not illustrative image. Chair Phillips understood the confusion on the language in terms of the building lining up, but he questioned what that even means in reality. Chair Phillips thought it was clearly stated that the 15' was discussed more than anything and he thought it was still in alignment. He could not recall any plat coming before the Planning Commission that referred to a building in its relationship to a building that is not on the actual site. Chair Phillips stated that this exhibit was not accurate, and nobody caught it at the time, but they should really be looking at the intent of the Planning Commission. He believed the 15' space and the stairs all appears to be in line with what was approved.

Chair Phillips agreed with the Staff recommendation that this is a substantive change, and it should be pursued as such.

Commissioner Thimm agreed with Chair Phillips. He did not remember his exact thoughts when this previously came before the Planning Commission; however, he knows he would have looked most closely at the engineering drawings. Commissioner Thimm stated that whether something was in alignment or out of alignment with something across the street would not have had a major bearing on his opinions at the time. He thought it was regretful that the record was not completely accurate, but he understood that it can happen, and that the developer presents the best information they have to their knowledge. Commissioner Thimm thought it was important that the record be made clear and they should go through the full process. He was leaning towards looking at this as a substantive change rather than a minor issue.

City Attorney Harrington stated that the motion anticipated is a determination of a substantive change in conjunction with a continuation to February 10th.

Commissioner Hall asked if there was further insight into the qualifications for substantive versus minor. She felt it was a gray area and she would like more clarification for future decisions.

Planner Ward remarked that one thing that triggers a substantive change is an amendment to a finding of fact. The Staff was requesting that Finding of Fact #112 and #113 be amended to clarify the Planning Commission's approval. Planner Ward

Commissioner Thimm thought it was important to give the applicant some direction for the next meeting. He would like what the south edge of the property will look like in terms of landscaping, the stairway, and similar issues. Commissioner Thimm noted that the Planning Commission has seen two representations and he would like it clarified in terms of the final plan on February 10th. Mr. Murphy offered to come back with a clearly illustrated street view of that particular area of the building.

Commissioner Suesser asked if they would also have exhibits showing the proposed Building D relative to the properties across the street on Lowell for further clarification of how that will look. Mr. Murphy replied that the exhibit will be crystal clear and accurate.

MOTION: Commissioner Thimm moved to CONTINUE the 1271 Lowell Avenue Master Plan Development Modification to February 10, 2021, with the stipulation that it is a substantive modification to the MPD. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

- 5.B. 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. For More Information Please Visit www.parkcity.org/housing-lmc. (Application PL-21-04738)**

Planner Ward stated that this item is specific to the Affordable Master Plan Development (MPD) Land Management Code amendments that have been in progress for three years. This is the final phase. The purpose is to incentivize public/private partnerships to develop affordable housing, to implement General Plan goals and the Housing Assessment and Plan Goals, and to incorporate suggestions made by Cascadia Partners in how the City can reduce obstacles in the LMC to incentivize these developments. The proposed Code also includes amendments that were enacted in 2020, which reduced the required open space for the AMPDs to 20%. It also reduces the setbacks for projects on less than two acres to the zone required setbacks.

Planner Ward stated that this is the first time the Planning Commission will conduct a public hearing on these proposed amendments. There were several work sessions throughout 2020 on these proposed amendments. Public input will be taken this evening. The Staff mailed notice to property owners within the zoning district where the AMPDs are proposed to be allowed.

Planner Ward reported that the proposed zones are zones where multi-unit dwellings are either an allowed use or a conditional use. She presented a zoning map and pointed to the Residential Development zone, which is spread across the City and is already mostly built out. She indicated the RDM zone along SR224, the RM zone along Deer Valley Road, the Recreation Commercial zone by the resort area, the General Commercial zoning district, and the Bonanza Park Area with the Light Industrial district. She also pointed to the Commercial Transition Zone along the eastern boundary.

Planner Ward remarked that the proposed Code sets a new process for AMPD review and approvals that allows some of the incentives for projects that provide at least 50% of the total unit residential equivalents as deed restricted affordable units. It would be allowed in the zones where multi-unit dwellings are already allowed as conditional uses. It establishes volume-based density, allows for parking reductions and increased heights, and mixed-use development. It prohibits nightly rentals and timeshares, and it requires recordation of deed restrictions for a 40-year period to renew based on the housing need at the time. It also establishes a Code to require annual compliance for tenants within these affordable units.

Planner Ward stated that based on the previous work sessions, parking has been a big point of discussion. The way the Code is currently drafted, affordable master plan developments would be required to comply with all the standards in place, including the electric vehicle charging station requirements. However, there would be exemptions where AMPDs would have a lower parking ratio requirement. She presented the parking ratio based on the last Planning Commission discussion.

Planner Ward commented on one point of clarification for discussion this evening. She noted that the reduced parking was already drafted in the Code as the ratio that would be required. The Staff would like clarification on whether this was the default requirement for affordable units, or whether it was the option if other mitigating factors are in place. The first would be that the applicant demonstrates that the parking reductions are required for the feasibility of the project; that the applicant funds and submits a parking and traffic study; it can be demonstrated that the reduced parking requirement will not impact the community; that the parking demand can be met through some other means; and that the applicant submits a parking management for the Planning Commission to review and amend in changing circumstances.

Planner Ward reported that based on the last work session, some of the potential reductions for these parking requirements would be for AMPDs on sites that are 1 acre or less, by taking away 5,000 square feet per 15,000 square feet of gross floor area to help lower the parking requirements; if off-street parking is available along the perimeter of the AMPD; if there is a clear and irrevocable agreement that authorizes AMPD tenants to park in an off-site parking area that is within 800 to 1,000 feet of the AMPD; if the affordable MPD is within a quarter mile of a bus station; if there is on-site parking for motorcycles, scooters; if the bicycle parking exceeds the requirements; or the AMPD provides dedicated parking spaces for resident carshare vehicles.

Planner Ward noted that at last work session the Planning Commission was open to allowing up to 10,000 square feet of commercial retail office and quasi-public uses to create some mixed use AMPDs. She stated that whatever the use of this commercial

use, it would meet the parking requirements already in place with the Code. No parking reductions are proposed for these commercial uses.

Planner Ward commented on building height and facades. Where the AMPDs are proposed in the zoning districts, the height for the majority of the zones is up to 33' for pitched roofs, which would allow for a 12' increase in height in some zoning districts. She noted that the Recreation Commercial Zone and the General Commercial Zone already goes up to 40', and this would allow an additional five feet in those zones. Planner Ward clarified that based on the Planning Commission's input to date, a 10' stepback would be required on all perimeter facade planes to help mitigate the impact of that height. There would also need to be an evaluation of the infrastructure that is already in place or can be updated to meet the increased demand. The building would also need to comply with the facade variation requirements already established in the architectural guidelines in the LMC. Planner Ward noted that the Staff was working on getting update illustrations that would reflect what was proposed in the Code. She presented images from the Cascadia report and noted that the image on the left side showed the idea of a 10' stepback, which would be required on all four perimeters of the project. The facade variation is already established in the LMC so the longer buildings would have some breaks in the design elements.

Planner Ward reported that four-story affordable developments have already been built in the City and they can work in the context of certain locations.

Planner Ward requested that the Planning Commissioner open the public hearing on the proposed LMC amendments and continue the discussion to February 10th when they hope to finalize this Code. She also requested that the Planning Commission provide clarification on the parking reductions and whether the reduced parking table is the default approval, or whether it is the table that establishes the lowest parking ratio if other mitigating factors can be put into place.

Jason Glidden, the Affordable Housing Manager, was available to answer questions.

Commissioner Suesser thought the parking table should not be the default but rather the minimum parking if other mitigating factors have been met. Commissioners Van Dine, Thimm, and Phillips agreed with Commissioner Suesser.

Commissioner Thimm asked Planner Ward to return to the exhibits that outlined the mitigating factors. He noted that it stated, "if the parking structure is located within 800 to 1,000 feet". He did not believe there was a need to specify 800 feet and preferred to just say, "within 1,000 feet". He thought 1,000 feet was a good walkable distance.

Commissioner Suesser asked if public transportation was mentioned in the mitigating factors. Planner Ward replied that if the affordable housing development is within a quarter mile from a bus stop, the way the Code is drafted it would be an improved bus stop with a waiting shelter consistent with the City standards, which the Transportation Department was working on getting established and adopted.

Commissioner Suesser clarified that the height exception would be raised to 45'. Planner Ward replied that it would be increased up to 45', which is an increase of 12' to 5' depending on the zone. Chair Phillips recalled a current process in some zones that gives the Planning Commission the discretion to grant a height exception for the purposes of affordable housing. Planner Ward stated that under the MPD Code, there are criteria where the Planning Commission can increase height. However, under the MPD Code, the increase in height cannot result in more livable square footage. This amendment to the Code would allow the height increase to result in increased density beyond what would be allowed otherwise. Chair Phillips recalled from the last meeting that the Planning Commission also discussed that regardless of where the building was placed on the lot, it should still step back 10'. Planner Ward recalled that it was either the setback from the property line or the setback from the facade plane of the building. It was based on the Historic Commercial Business Zone, which also also allows for the setback. It is set from where the building is on the site instead of from the lot line.

Chair Phillips opened the public hearing.

Jessica Nelson noted that an eComment was submitted by Michael Kaplan and he requested that she read his comments into the record.

Mr. Kaplan wrote: Dear Planning Commissioners, I own several long and nightly rental properties in Old Town. For several years I have been proposing to build affordable rental units in Park City. I have made a number of proposals to City Staff for them to bring to the City Council. In essence, my partners and I have proposed a public/private partnership to build and manage affordable rental units. In essence, we suggest the City provide the land and we incur the cost of the construction. Further, we added that we would accept rent price limits and we would incur the management costs. Even though these were well thought out and serious proposals, sadly our efforts were met with what we felt were inappropriately short, negative replies, and we eventually gave up our efforts.

Mr. Kaplan also raised his hand on Zoom to speak and was unmuted to speak.

Michael Kaplan stated that a function of the real estate values makes it unable to build a lot of affordable housing. He has been focusing on rentals, and he suggested that the

Commissioners might consider the for-sale needs versus the rental market needs. He has been proposing micro units, which are 300-400 square foot units primarily for work force housing. He also thought they should consider whether being on a bus line affects the parking requirements. Mr. Kaplan stated that he has faced many issues, including NIMBY, density issues, and height issues. The bottom line is that people want to step forward, but they have been disincentivized by the current Code. Mr. Kaplan encouraged the Commissioners to try to modify that and incentivize people to move forward.

Chair Phillips thanked Mr. Kaplan for his comments. He noted that the Planning Commissioner was trying to work on incentivizing to make it easier to do affordable housing.

Neal Krasnick raised his hand on zoom and was unmuted to speak.

Neal Krasnick stated that he is an owner and resident of property in Park City and he has lived in Park City for 30 years. From listening to the public comments, it sounds like someone wants to build affordable rental units as a condominium. He has owned a condominium since the early 1990s, and parking is an extreme issue in town because most people in the Country own a vehicle. If people want to go somewhere, they will get in their car and drive there, especially in the kind of winter conditions in Park City. Mr. Krasnick understood that when Stein Eriksen moved to Deer Valley and wanted a lodge, he instituted indoor parking. A lot of condominiums in the historic Old Town area have underground parking or indoor parking. On street parking is very limited. The biggest problem for people who live on Park Avenue is the lack of parking for their visitors. Mr. Krasnick remarked that the Planning Commission was going down a road to allow one car for one unit, but that person will still have people come and visit and they will drive there. When the weather is bad the bus system slows down and people will not walk 1,000 feet in the snow, rain, wind, or heat. If the City needs individual units for employee housing that are 300-600 feet, it is just like the condominium he lives at. His place has had many problems for the last 30 years because no one shows up with one car, even though there is only enough parking for one car. Mr. Krasnick stated that this environment is not conducive for year-around transportation as a means to an end to get back and forth. City transportation does not have buses going in every direction 24/7 twelve months of the year. It is difficult to go anywhere if you need to rely on public transportation in Park City. Mr. Krasnick welcomed questions from the Commissioners if his comments were ambiguous or unclear.

Chair Phillips closed the public hearing.

Commissioner Kenworthy responded to the public comments. He noted that the City hired an expert, Cascadia Partners, and the proposed changes were recommended based on what they have seen work in other cities across the Country. The City has a critical priority to have affordable housing and rental housing, which adds to the life and sustainability of a City. The City has goals, and they are coming up short on those goals. Commissioner Kenworthy stated that these experts are proposing these changes after 36 years of failed attempts with City Hall trying to do it alone. They have also failed to get into any public/private partnership with private entities who can be far more efficient at building these units if they do it together.

Commissioner Kenworthy understood that there are compromises. He pointed out to Mr. Krasnick that Park City has a transit first philosophy and agenda. A comprehensive plan is not in place currently, but they need to start somewhere. Commissioner Kenworthy was in favor of what the experts were proposing in implementing these changes into the Code.

Chair Phillips agreed with Commissioner Kenworthy. As discussed earlier in the meeting, they also paid extra attention to mitigation. Chair Phillips hoped this action would move the needle and make it more viable to create more affordable units. He agreed that affordable rental was the next focus, and he thought the City and private applicants might be able to make it work. Chair Phillips was comfortable with where they were on this and he believed they had done most of the work in prior meetings. He was in favor of the amendments as drafted.

Commissioner Thimm agreed. He thanked Planner Ward for a superb job incorporating the ramblings of the Planning Commission into something sensible. He supported the draft amendments.

Commissioner Hall agreed with Commissioners Thimm and Phillips. She agreed that the Planning Commission did a lot of work in previous meetings. She appreciated all that Planner Ward had done to incorporate their direction into the draft. Commissioner Hall also agreed with public comment and the need for affordable rentals. She looked forward to continuing that discussion in the near future.

Chair Phillips wanted to know why the Planning Commission was being asked to continue this item. Planner Ward stated that the intent was to provide another opportunity for public input. It was legally noticed to be forwarded to the City Council for their consideration on February 25th. If the Planning Commission wanted to conduct another public hearing it could be continued. If not, she thought the direction was clear on reworking the parking section so the table is the lowest possible parking that could

be approved if the other mitigating factors are put into place. Otherwise, the usual parking ratio requirements will be required.

Planner Ward noted that since the public notice went out, she has had a lot of input and a lot of questions from the public. She thought it would be beneficial to provide another opportunity for public input.

Chair Phillips stated that the Planning Commission would continue this item to the next public hearing on February 10th. At that time the Commissioners would forward a recommendation to the City Council for their consideration on February 25th, where the public would have another opportunity to comment.

Commissioner Hall asked if it was possible to add something about the rentals before it comes back on February 10th. Planner Ward offered to go through the section on the deed restrictions and clarify that it can apply to rentals or ownership.

Commissioner Kenworthy asked Jason Glidden to address the concerns with regard to the Code changes. He recalled that Mr. Glidden had done a specific drill down on rentals.

Mr. Glidden stated that a presentation was recently given to the City Council regarding the City's forward movement on housing and talked a little about some of the demographics as far as the work force, hourly wages, and how those compare to buying power. It showed there was a major need for rentals. Mr. Glidden noted that the City will be pushing to encourage rentals to be produced into the future. He emphasized that there should be a mix. They should still do some for-sale as well, but the need they are seeing is primarily the rental product in the near future.

Commissioner Kenworthy thought they previously talked about the financial aspects from a builder standpoint and that these Code amendments would allow for some financial profit in motivating the private sector to move forward on rental units.

Mr. Glidden stated that during a previous work session with the Planning Commission, he reviewed a spreadsheet showing the financial impact that these Code changes would have on a development. It was a fictitious spreadsheet of a possible development and it was based off a rental model just to show that it is a possibility to run the rental model. Mr. Glidden stated that the goal with all the Code changes being proposed is to really incentivize public/private partnerships to develop.

Mr. Glidden reiterated that they presented to the City Council with the facts and the demand in the market for affordable the rental product, and that they should focus more of their efforts in that direction.

Mr. Glidden appreciated the feedback and the questions and working through the process was very productive. Based on what they are modeling, a lot of the changes are moving them in the right direction and would hopefully lead to some development of affordable housing. Mr. Glidden was hesitant to put in the deed restriction that the units need to be rental properties. He preferred to leave it somewhat open. He thought it was important to let the market drive the direction. The push right now is for rentals. With these Code changes, he thought they could see more of that move into town if they can find developers willing to partner with the City.

MOTION: Commissioner Hall moved to CONTINUE the discussion and public hearing for the Affordable MPDs to February 10, 2021. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission Meeting adjourned at 7:37 p.m.

Approved by Planning Commission: _____