



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
January 26, 2022**

COMMISSIONERS IN ATTENDANCE: Chair Laura Suesser, John Kenworthy, Sarah Hall, Doug Thimm, Bill Johnson, Christin Van Dine

EX OFFICIO: Gretchen Milliken, Director; Jaron Ehlers, Planning Department; Browne Sebright, Planner II; Makena Hawley, Planner II; Spencer Cawley, Planner I; Mark Harrington, City Attorney

1. ROLL CALL

In the absence of Chair John Phillips, Commissioner Laura Suesser assumed the Chair and called the meeting to order at approximately 5:30 p.m.

The following written determination was read:

The Chair issued a written determination that because of the public health emergency, conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may attend in person. This determination is based on the ongoing risks and infection rates statewide and in Summit County. For these reasons, this meeting will be an electronic meeting without an anchor location. Planning Commission members will connect electronically.

Public comments will be accepted virtually. To comment virtually, use eComment or raise your hand on Zoom. Written comments submitted before or during the meeting will be entered into the public record but will not be read aloud. For more information on attending virtually and to listen live, please go to www.parkcity.org.

2. PUBLIC COMMUNICATIONS

There were no Public Communications.

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Commissioner Christin Van Dine reported that she would recuse herself from Agenda Item 4.C. (2089 Equestrian Court) based on the fact that the applicants are her neighbors and good friends.

Director, Gretchen Milliken, reminded the Commissioners that the four-hour meeting limit would be applied to this meeting, as would a time limit on public comment. She noted that Mr. Ehlers would run a clock and remind those speaking as they approach their time limit. Commissioner Van Dine asked if the time schedule for the meetings would be published so that the public could

plan their attendance at meetings. Director Milliken stated that the Planning Department internally set time estimates for the agenda items and these time estimates would be included in the agenda for the next meeting.

Chair Suesser commented that this would be particularly helpful for Work Sessions, particularly for the public that would be looking to join the meeting on a particular issue.

A. Pickleball Court Land Management Code Amendments.

Director Milliken explained that the applications for Conditional Use Permits ("CUP") for this meeting were coming in as Recreational Sports Facilities. She provided some background on pickleball and its popularity and noted that it was invented in 1965 in Washington State when some fathers were looking to entertain bored kids.

There are different theories behind the name "pickleball." Director Milliken stated that one theory is that it was named after a term used in crew; the other is that it was named for the family dog that would retrieve the balls.

Director Milliken noted that there were over 4.2 million pickleball players in the United States in 2020, a 21% increase from the previous year. Park City is trying to accommodate for that popularity and excitement, and the Park City Recreation Department and Recreation Advisory Board are currently evaluating temporary and permanent public indoor and outdoor courts to meet the increased demand. She reported that this would come before the City Council at its' next meeting.

She presented a map that illustrated the locations of the public and accessible courts within the City and noted that there are seven locations and 37 courts.

Director Milliken next addressed the impacts related to pickleball. On the positive side, it is a sport that is easy to learn and low impact, which allows for people of all ages to play. She noted that pickleball has become very popular with the older generation and has many physical and mental health benefits. Pickleball is also a social sport, with four participants on the court in addition to spectators.

She next addressed the negative impacts, with noise being the primary negative. The paddles, balls, and courts are hard, which causes sharp pinging sounds as the games are played. The fast pace of the game amplifies the sounds.

The courts are approximately 20' x 40' so they take up a decent amount of space.

Director Milliken added that the popularity of pickleball might edge out other sports such as tennis. She noted that many tennis courts were being adapted and used as pickleball courts.

She added that as pickleball courts are entering the residential neighborhoods, some issues have arisen. The popularity of the sport could be seen as both a positive and a negative.

Planning Staff has looked at mitigation and how they could support this sport while also mitigating the negative impacts. They have made recommendations for changes to the Land Management Code ("LMC") that would specifically spell out the mitigations for pickleball courts.

She presented some of Planning Staff's recommendations that they would bring before the Planning Commission. The first recommendation was the requirement for an Administrative Permit that would trigger public notice to adjacent properties as well as a public hearing.

Staff also would also recommend modification of the LMC's definition of Private Recreational Facilities to identify pickleball courts as a type of facility that would require additional mitigation due to the noise associated with the sport.

Director highlighted some of the more specific mitigation strategies being considered. These include the following:

- A minimum lot size of ½ acre or more
- Having a minimum 100-foot setback for the pickleball courts if there was no mitigation, but as low as 50 feet if there were substantial mitigations in place
- Limited pickleball court use. They would recommend not allowing use in the evenings or early morning hours or with bright lights
- Potential Homeowner Association approval for properties within an Association
- Requiring further mitigation strategies if there are numerous complaints regarding the use of a court within one year of being permitted

Chair Suesser asked why Staff limited the window of complaints to one year after permit issuance and suggested something along the lines of three noise complaints in any given year. Director Milliken explained that Staff was in the process of reviewing potential changes to the LMC, and appreciated this comment and others, as they will assist Staff in shaping the recommendations for the LMC amendments. She stressed that these are simply recommendations based on research conducted to date on the best practices of other cities.

Director Milliken explained that during the Regular Agenda, the Planning Commission would be looking at two Conditional Use Permits for Private Recreational Facilities within the Park Meadows neighborhood. She reported that Building Permits were issued for the structures that include a solid concrete pad, which is permissible. The applications would address the painting and use of these pads as pickleball courts. She explained that it was the clarification of proposed pickleball use on these sports courts that triggered the CUP for a Private Recreational Facility, which requires Planning Commission review. She reiterated that Staff's focus was on mitigation since the pads are already constructed.

Director Milliken noted that the LMC Amendments would be brought before the Commission on February 23, 2022. Staff legally noticed a pending notice, so no new CUP's for pickleball courts would come before the Commission prior to that hearing. She stated that there would be engagement prior to drafting the final recommendations for the amendments to the LMC. There is a current survey on the Engage Park City webpage, and she encouraged the Commissioners and anyone else in attendance to take the survey. Two virtual open houses would also be held on February 7, 2022, from 5:00 to 6:00 p.m. and February 8, 2022, from 12:30 p.m. and 1:00 p.m.

Director Milliken also encouraged those with questions to contact the Planning Department at www.planning@parkcity.org or by telephone. In response to an inquiry, Director Milliken stated that the link to join the virtual open houses would be on the website. Staff also planned to promote the open houses in social media approximately one week prior.

Chair Suesser asked if public comment should be opened on this presentation. City Attorney, Mark Harrington recommended allowing public comment as part of the public hearings on the pending applications.

Director Milliken explained that the Commissioners would have the opportunity to comment on the proposed amendments after the CUP's are presented to the Commission. She intended this presentation to be largely informative, but Staff would welcome any comments. She stated that any comments or questions sent to the Planning Department should be labeled "Pickleball," and would be seen by all Planners and compiled for review. City Planner, Browne Sebright, would be drafting the LMC Amendments.

Commissioner Van Dine asked if the Planning Department planned on addressing sports courts in general. Director Milliken acknowledged that many sports courts could be used as pickleball courts, and they hoped to address them in the LMC amendments.

4. REGULAR AGENDA

A. 1660 & 1700 Three Kings Drive - Payday Condominiums - Plat Amendment - The Applicant is Requesting to Amend the Existing Plat to Rectify Inconsistencies and Clarify Developable Private Residential Space for Condominium Owners.

City Planner, Makena Hawley, stated that the Payday Condominiums are within a Residential Development ("RD") zone, and located at 1660 and 1700 Three Kings Drive. The condominiums are surrounded by the back nine holes of the Park City Golf Course, as well as other condominium projects and single-family homes. She reported that the property was platted and built-in 1972 and approved with a Conditional Use Permit in the then-named Forest Estate ("F-E") zone. The project has 21 buildings with a total of 51 units. There are currently 72 parking spaces on 5.26 acres. Planner Hawley reported that in 1972, the Forest Estate zone and the Planned Unit Development portions of the LMC allowed the Payday Condominiums to fully comply with the LMC at the time of construction. Currently, since the development is located in the Residential Development Zone it is subject to different zoning regulations. However, because it was lawfully constructed in 1972, the buildings are considered Existing Non-Complying Structures.

In 2018, the Building Permit for a proposed addition to a unit was flagged because it was outside the private area as stated on the plat. After further review, the Planning Department realized that several remodels and additions to other units had been completed over the years that fell outside of the private area. As a result of these remodels, the applicant was advised to amend the plat, address the existing conflicts and clarify the building envelope. Planner Hawley explained that the application seeks to update the plat to reflect the existing private ownership. The previous areas of common or limited common ownership that were enclosed would be updated and recorded properly.

In addition, she noted that the application seeks to specify the entire building envelope, including height, footprint, and building pad to limit and create predictable future conversions. She commented that this would be good for the City because it would bring the condominiums into substantial compliance and the plat would match what exists. In addition, the Plat Amendment would benefit the Homeowners' Association ("HOA") because it would allow equity amongst all of the Payday neighbors and create a harmonious and homogenous design across the property.

Planner Hawley reported that since the Building Permit application in 2018, the Planning Department had been supportive of a proposed Plat Amendment as long as the areas of expansion are located within the existing building pad. The Plat Amendment would rectify existing discrepancies and clearly define what could be added to the units while eliminating the need to otherwise amend each unit incrementally. It also would allow for a predictable, transparent process for remodels and additions. For the HOA, it would equitably allocate developable space to those who had not expanded their units. Planner Hawley added that the Plat Amendment would acknowledge and rectify the existing error on the original plat in which the property line extends over the existing Three Kings Road.

She explained that this proposal was extensively reviewed by the Planning Department. The Director determined that the changes would not constitute an expansion of the degree of Non-Conformity. Planner Hawley stated that due to the change in the zone and the 50 years of change that this development has seen, there are several areas of non-conformity. These areas of non-conformity include density, setbacks, height, and parking. With respect to density, Planner Hawley stated that there are 51 units on 5.6 acres. With the maximum density in the RD Zone set at five units per acre, this project exceeds that density. However, because the applicant did not propose to increase the total number of units, Staff found no increase in the non-conformity.

Planner Hawley next presented a graphic illustrating the decks and structures that encroach into the RD setback zone. She noted that much of the encroachment exists along the front because the owners included their 50-foot setback buffer, which does not necessarily exist. The Plat Amendment would not change anything, because it would only record the property line at its proper location. She presented another graphic showing that because the property lines and structures would not move as a result of the Plat Amendment, there would be no additional impacts. The structures were constructed legally, and the buildings and roads would not be expanded into any setbacks. No negative impacts had required mitigation in the past 50 years.

Planner Hawley reported that the Planning Department favored bringing this project into compliance so long as the additions are within the existing building footprint. There was no proposal to expand any units further within the setbacks, and any deck expansions would need to comply with current setback regulations. As a result, Staff found no increase in the non-conformity.

Planner Hawley next addressed height and noted that there were 15 triplex units on the property. Six stand-alone units are all within the RD Zone height. The units in each triplex building are similar in layout and size; however, the middle units have an extra level above the 28-foot threshold to allow for additional light. She presented a graphic showing the triplex cross-section. She explained that the configuration of the triplex building creates a significant barrier to allow for an equitable dispersion of assets to the owners of the 15 center units; she noted that the HOA was able to gain a majority vote to apply for this Plat Amendment by addressing this inequity.

She presented architectural renderings that compared what currently exists and what the structure will look like at full build-out. The areas in the center units to be turned into private area as a result of the Plat Amendment were highlighted in yellow. Planner Hawley added that the areas highlighted in blue would be utilized on the Plat as square footage; however, owners would not be able to change the slanted gable roof.

Commissioner Thimm confirmed that the yellow highlighted areas on the graphic were potential areas of expansion should the Plat Amendment be approved. He asked if there were permitted

applications for additions similar to this over the last 50 years. Planner Hawley stated that no units above the height had been approved. She explained that the existing plat specified that only one of the two 12' x 12' areas in the center unit were allowed. The blue areas could be utilized without changing the roofline. Planner Hawley stated that because the heights would not be increased and the changes would improve the design, Staff found that there was Substantial Compliance with the height requirements.

Planner Hawley next addressed the parking requirements. She explained that the original plat required 51 parking spaces for 51 units. Over time, the development added spaces for a total of 72 parking spaces. She commented that this area was dense with amenities such as bus stops, hiking and biking trails, a restaurant, and a ski lift. She explained that pursuant to the LMC, the RD Zone includes intentions for "growth capabilities," "clustering of residential units", and "minimizing impacts of the automobile on architectural design." The applicant also stated that parking has historically not been an issue and no more need would be anticipated as the use and density would not increase. With no unit equivalents being proposed, the parking history, and in keeping with the RD zone purpose statements, Staff found no reason to increase the amount of parking over what exists today.

Planner Hawley stated that the Planning Department worked with the applicant to arrive at a suitable solution to correct the changes that developed over the past 50 years. This proposal would be an improvement on the design and create equity among the Payday community while increasing livability and preventing undue hardship. It would also bring the development into Substantial Compliance with City regulations.

Without an increase in unit equivalents, the Director determined that the proposed Plat Amendment would be in substantial compliance. Staff recommended that the Planning Commission hold a public hearing and consider forwarding a positive recommendation for the City Council's consideration on March 3, 2022, subject to the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Ordinance.

Planner Hawley announced that the applicant was present, and all would be happy to answer questions or clarify any aspect of this application.

Chair Suesser asked about nightly rentals in the units and the HOA's commitment to confirming that nightly rentals were properly licensed. Planner Hawley reported that the HOA had not yet held a meeting to address nightly rentals; however, based on discussions the HOA would highly encourage licensing. She reported that legally, the HOA had no ability to enforce licensure on individual units. Planner Hawley added that Condition of Approval #7 for the Plat Amendment addressed HOA notice with respect to nightly rentals.

Commissioner Bill Johnson commented that he would like more teeth written into Condition of Approval #7 regarding nightly rental licenses.

Robert Rosing, counsel for Payday Condominium HOA, addressed the nightly rentals and noted that the HOA was comfortable informing the owners that nightly rental licenses are required and if they do not have a license, they are breaking the law. However, the HOA is not as comfortable enforcing the licensing requirement since (1) the HOA does not track who is offering nightly rentals; and (2) if they learn that an owner is renting without a license, the owner would be breaking City Code, not an HOA rule. He reiterated that the HOA would advise owners of the need to have a license, but the HOA's ability to require owners to obtain that license is limited.

He noted that there are statutes that govern Community Associations and condominiums and limit the HOA's ability to restrict nightly rentals.

Commissioner John Kenworthy asked about enforcement of the HOA's Architectural Review process. Mr. Rosing stated that there has not been significant recent construction since the building was constructed 50 years ago. He acknowledged that there are architectural control guidelines in the CC&Rs that were adopted; however, the Plat Amendment is how they are trying to address the issue of enforcement. He explained that if someone built into the common area 25 years ago, and it was permitted, it would be difficult for the HOA to address it now. Mr. Rosing offered that going forward, the HOA would have control over what owners build on the exterior since it is ultimately the HOA that maintains the exterior of the buildings. This control would have to be strengthened with this Plat Amendment.

Commissioner Kenworthy commented that his concern is what would occur going forward. He noted that the City has spent a lot of time and money on this issue, and they would like to have the HOA as a partner going forward. Mr. Rosing stated that if an owner builds something that does not conform to the Plat or is not built to Code, which becomes the HOA's problem; therefore, financially, the HOA has every interest in enforcing the Plat and the architectural guidelines. He added that the HOA also has every desire to ensure that any future owner who builds, does so in accordance with the rules.

Susan Philipp, a member of the Payday HOA, stated that the HOA Board has discussed this topic extensively, and they realize that this phase of the proposed Plat Amendment is a big step for Payday. Following approval of this application, Payday's next step would likely be looking at hiring an architect to consider what the architecture should look like so that it is harmonious. She stated that they have an Architectural Review Committee that reviews every remodel as it proceeds through the Building Department. They have had the Architectural Review Committee in place for at least seven years, and it has made a tremendous improvement and impact on the remodels at Payday. Ms. Philipp stressed her commitment to making sure that they remain strict in terms of architectural standards. She has a background in architecture and is proud of Payday and thinks it could be a signature property moving forward.

Adam Walker, a member of the Payday HOA, added that as part of the Architectural Review Committee, they developed standards for each homeowner. He provided an example of a recently implemented "sound standard" that details the considerations and criteria for the sound impact of remodels to the other neighbors. He added that the Committee was in the process of developing a standard relating to air conditioners. He felt that the Architectural Committee has the teeth to enforce its standards and they continue to strengthen it.

Chair Suesser opened the public hearing.

Susan [last name not stated] identified herself as a resident of Payday and purchased her property in June. She reported that she is installing three replacement windows and attested to the formal and organized process required by the HOA. She paid a \$750.00 deposit and provided the HOA with detailed plans showing that she was replacing the windows with like windows updated with better energy standards. Additionally, she stated that she would not receive her deposit until after completion of the work and inspection by the Building Department and the HOA. She stressed that this is an organized process and something that the owners adhere to when making improvements. She added a comment regarding the planned development at the base of the Park City Mountain Resort and stated that this year Silver Star Lift has not been opened by Vail

Resorts, which squeezes the small businesses as well as the Thanes Canyon neighborhood. With PEG asking for reduced parking at the base, it would be helpful for the Silver Star Lift to be operational because it is a community lift. She felt that it was not in the resort's best financial interest to operate the lift, and she wanted to include a requirement that Vail would operate that lift on a regular basis as part of any approval of that project. She reiterated that the HOA worked hard on this Plat Amendment and the HOA is strict when it comes to architectural guidelines and would enforce them. She was encouraged to submit her written comments on the PEG Development project.

Commissioner Sarah Hall requested a map showing which units could build these additions so that they could see the scope of the expansions to the area. Planner Hawley explained that all of the units would have the ability to expand if the Plat Amendment were approved. Ms. Philipp clarified that each unit would have specific expansion opportunities. Planner Hawley explained the rendering attached as Exhibit C to the Staff Report compared what was originally platted units versus the units with the proposed Plat Amendment. Commissioner Hall felt that this would create a lot of mass and invited discussion on the issue of building height.

Planner Hawley reported that the zone height is 28 feet and the only portion that is currently over the zone height is the middle unit pop-up. The middle unit pop-up is 36 feet in height in some areas and 37 feet in others. She clarified that under the proposed Plat Amendment, the pop-ups in the middle units would not be allowed to exceed their existing heights.

Chair Suesser asked if the Planning Staff discussed prohibiting fixtures like swamp coolers on top of these units, which would add additional heights. Planner Hawley stated that Staff did not discuss that issue and stated that this height limit would be strictly enforced. Mr. Rosing commented that the HOA would not allow a swamp cooler on top of the building under the HOA's Architectural Standards. Ms. Philipp confirmed that the HOA would not allow air conditioning units on the upper-level roofs and reiterated that they were reviewing air conditioning unit standards. She commented that it is a difficult subject due to aesthetics but stressed that the HOA was not supportive of adding air conditioning units to the roofs.

Commissioner Thimm asked if the applicant would be amenable to an added Condition of Approval that would prohibit equipment on the highest portion of the roof. Ms. Philipp expressed her consent to that addition. In response to a request for clarification from Chair Suesser, Commissioner Thimm stated that he would suggest a prohibition of equipment on the top portion of the 36 to 37-foot levels of the roof. Chair Suesser agreed, as did Commissioner Johnson.

Commissioner Kenworthy expressed his feeling that they should prohibit equipment on the top of all roofs. He noted that historically, the middle units had not illegally added to their units and this compromise involves the 12-foot pop out on top. He queried why they would allow the other units rooftop access when the Unit C's do not even have that access available to them. Ms. Philipp clarified that Payday was proposing that each middle unit in each triplex building only had one opportunity for any considerable remodel expansion, and that opportunity is on the top floor. The HOA proposed to allow the owners of these units to add an eight-foot bump out with a deck and that is the only expansion contemplated by this proposal.

Commissioner Kenworthy understood that it was this compromise that satisfied the owners of the middle units. Chair Suesser noted that owners of A and B units would also have the opportunity to bump out; they just would not have the height exception. Commissioner Kenworthy stated that he would not give the owners of A and B units the right to install air conditioning units on their

roofs if they were restricting the owners of the middle units. He would suggest prohibiting air conditioners on all roofs and leave it to the Architectural Committee to determine an equitable place to install them if they were approved in the future.

Ms. Philipp stated that they would make that a consideration and noted that the concern would be the proximity of the buildings and the placement of air-conditioning units in common areas. She stated that they were taking significant measures to ensure that noise mitigation was being met; installing air conditioning units on roofs could help with that issue, but ice and snow present another issue. If they would allow it, they would look for some architectural shielding so residents would not be looking at equipment. Ms. Philipp reminded that they have not reached any conclusions as of yet.

Chair Suesser remarked that the Commission was concerned that if they approve this application, they would be accepting the Non-Conforming Use and expanding the height exemption for these units, which is not something they typically like to approve. Given these particular circumstances, the Commission could see that it might be appropriate. She stressed that they would not want a further violation of that height exception by the addition of any further equipment on the roofs.

Commissioner Hall referenced the Exhibit C drawings showing the expansion areas and noted that she felt that this application would expand the footprint. She reiterated her position that any lower additions, such as enclosing a walkway, would be acceptable; however, the renderings seem to give the owners a lot of latitude to expand on the higher level, which would be visible and would collectively seem like a lot. She felt that the buildings as depicted in the renderings looked significantly larger, would constitute an exception to the LMC, and would be available to a lot of units.

Commissioner Kenworthy had similar concerns but returned to the notion that this Plat Amendment would clean up the additions on this property. He was encouraged by the fact that the HOA representatives were working with City Staff. He agreed that the owners of the middle units have no upside when everyone else can expand. He reiterated his suggestion of keeping air conditioning units off of all of the roofs. He expressed that he was trying to be equitable with not just the bigger units, but also the smaller middle units. Commissioner Christin Van Dine agreed with these comments.

Commissioner Hall reiterated her concern that they would be adding a lot of density above the height level for this zone; she does not like to reward bad behavior and felt that this is what was being done here.

Commissioner Thimm offered that the additional mass did not seem out of character with the rest of the buildings and in terms of building bulk. He did not feel like it would be a significant change. He liked the idea of establishing some kind of equity while also establishing true constraints and limitations. He would like to see the sketches representing the limits of what could be allowed in the future.

Commissioner Suesser was comfortable with the application because of the finding that there would be no increase in the degree of non-conformity.

Staff Report Exhibit C, page 7 was discussed. Planner Hawley explained that this rendering depicted one of the single units, which would be fully compliant with the height requirement of 28 feet. Only the triplexes exceed the 28 feet height.

Commissioner Hall reiterated that she felt this would add a lot of extra mass along with the height violation and was not excited about these changes.

Chair Suesser acknowledged the applicant's description that the pop-up units were not very usable, and the expansion would make these small rooms a more livable space. Mr. Rosing stated that when these were originally built, a ladder accessed these pop-up spaces. Ms. Philipp added that with all the Payday units, the master bedroom on the second level was a lofted space accessed by a ladder. Over time, owners closed these off and tried to make it a third-level bedroom. The spaces are small and awkward with several non-compliant stairways that lead to those rooms. She offered that allowing for the addition in the middle units would ensure a code-compliant stairway to that area and some usable space.

Commissioner Johnson sought clarification as to whether the applicant was agreeable to a Condition of Approval prohibiting rooftop equipment. Commissioner Kenworthy requested a Condition of Approval that the HOA would provide notice on a yearly basis that a license is required to offer nightly rentals. It was suggested that this language be added to Condition of Approval #7 in the Draft Ordinance.

Planner Hawley confirmed the addition of Condition of Approval #8 that rooftop equipment shall be prohibited. It was clarified by Commissioner Thimm that a plumbing vent would not be construed to be equipment. Planner Hawley suggested referencing the LMC language regarding equipment that is exempt from the height limitations.

Mr. Harrington sought clarification on whether the prohibition would be applicable to any new roof area over the zone height of 28 feet. Commissioner Thimm stated that it would apply to any new equipment on any roof area.

Planner Hawley stated that she would list the equipment from the LMC height exceptions. It was clarified that the Condition would state that the language be approved by the City Attorney.

MOTION: Commissioner Kenworthy moved to forward a positive recommendation for the City Council's consideration on 1660 and 1700 Three Kings Drive Payday Condominiums amended Plat subject to the following:

Findings of Fact:

1. The property is located at 1660 and 1700 Three Kings Drive.
2. On June 8, 1972, the Planning Commission approved a Conditional Use Permit for the Payday Condominiums.
3. The Payday Condominium plat was recorded with Summit County on May 30, 1972.
4. In 1972 the Payday Condominiums were located in the Forest Estate (F-E) zone.
5. Planned Unit Developments were considered a Conditional Use in the F-E zone and the Payday Condos met all zone requirements at the time of approval.

6. The Payday Condominiums subdivision contains 21 buildings and 51 units.
7. In 2018 Planning Department staff informed representatives of the Payday Condominiums Association that a plat amendment would be required in order to rectify existing inconsistencies and clarify locations for future expansion in units that had not expanded.
8. The Payday Condos are now located in the Residential Development (RD) zone.
9. The proposed amendment is consistent with the purpose statements of the RD zoning district.
10. All additions to units are proposed within the existing building footprint.
11. The discussion and findings in the Staff Reports dated 1/26/22, 10/13/21, and 5/12/21 are incorporated herein.

Conclusions of Law:

1. There is good cause for this amendment to the plat.
2. The amended plat 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 plat amendment.
4. Approval of the plat amendment, subject to the conditions of approval, will not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the amended plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. No building permit application may be submitted until after this plat amendment has been recorded.

4. Proposed additions are required to fit within the existing building pad and are not allowed to be expanded further into the setbacks.
5. All deck extensions must comply with Residential Development Zone setbacks. If the unit's deck is currently non-complying with the setback requirement, the unit owner shall not enlarge their deck. The plat amendment shall include a note outlining the following:

"The units identified below may only extend if the deck fully complies with Residential Development Zone setbacks.

 - a. Building 2 – Units 160, 161, 162
 - b. Building 3 – Units 163, 164, 165
 - c. Building 4 – Unit 174
 - d. Building 10 – Unit 174
 - e. Building 12 – Unit 180
 - f. Building 13 – Unit 181, 182, 183
 - g. Building 16 – Unit 190, 191, 192
 - h. Building 19 – Unit 201
 - i. Building 20 – Unit 202, 203, 204
 - j. Building 21 – Unit 205, 206, 207"
6. Deck extensions, less than 30" above final grade, which are LMC compliant and receive Payday board approval, may be approved without a plat amendment. The deck will be in the common area perpetually which keeps in the ownership of the Payday HOA.
7. The Payday HOA shall provide all Unit owners affirmative notice of City nightly rental regulations and use reasonable business efforts to ensure compliance with the requirement for City Nightly rental licenses.
8. Rooftop equipment shall be prohibited.

Commissioner Johnson seconded the motion.

VOTE: Commissioner Hall-Nay; Commissioner Van Dine-Aye; Commissioner Thimm-Aye; Chair Suesser-Aye; Commissioner Kenworthy-Aye; Commissioner Johnson-Aye. The motion passed 5 -to-1.

- B. 1961 Venus Court - Conditional Use Permit - The Applicant Proposes To Make an Improved Concrete Pad Into a Pickleball and Sport Court, a Private Recreation Facility, in the Single Family (SF) Zoning District. PL-21-05072.**

Planner Sebright presented the staff report and stated that the applicant was requesting a Conditional Use Permit to use a concrete pad as a pickleball court, which under the LMC is considered a Private Recreational Facility that requires a Conditional Use Permit. He reported that 1961 Venus Court is in the Park Meadows neighborhood and accessed off of Evening Star Drive and Little Kate Road and immediately abutted by five other properties. The subject property is located within the Single-Family ("SF") zoning district.

Planner Sebright explained that in July 2021 the applicant applied for a Building Permit for a concrete pad in their backyard. He noted that a concrete pad is an allowed use in a rear yard and was approved by the Building and Planning Departments. In mid-August, Planning Staff received information that the intended use of that concrete pad was for a pickleball court. Thereafter, Staff requested that the applicant submit a Conditional Use Permit for the Private Recreational Facility as required under the LMC. He added that in mid-November, the applicant submitted the Conditional Use Permit application for the Private Recreational Facility.

Planner Sebright reported that Staff looked at the requirements of the SF zoning district and found that the Conditional Use Permit complied, as conditioned, with the zoning district requirements. He noted that they looked at density, setbacks, and heights, and this proposal complied with density, front and rear setbacks. With respect to the side setbacks, Planner Sebright stated that the zone requires a side setback of 12 feet; as the concrete pad exists today, it is 5 feet from the east lot line. He noted that the pad is larger than a regulation pickleball court and they confirmed with the applicant that they could accommodate the entire court on the eastern portion of the concrete pad.

He noted that there would be approximately seven feet of existing concrete flatwork that would remain in the side yard setback, which is an allowed exception under the LMC. He noted that the only distinction between the Recreation Facility and the flatwork would be the painted stripes delineating the pickleball court. With respect to structure height, Planner Sebright reported that the court was proposed to be three feet tall, which includes the netting and poles; Staff has recommended a series of mitigation requirements, one of which would be to install a 12-foot noise reducing fence around the court. Planner Sebright presented an aerial graphic showing the residence and the location of the proposed pickleball court located entirely outside of the setbacks.

Planner Sebright explained that Staff's second analysis addressed the Conditional Use Permit criteria. Staff recommended that the Planning Commission evaluate conditions specifically to mitigate noise and nuisances in accordance with the LMC. He presented the LMC's 16 criteria that must be reviewed in all Conditional Use Permit applications. He noted that for many of these criteria, there were either no unmitigated impacts or the criteria were not applicable. He explained that for off-street parking, a Private Recreation Facility generates its own parking requirement. The LMC requires one space per four persons maximum-rated capacity. He explained that pickleball is played with four people, and the applicant agreed that more than four players would not use the court at a time. Planner Sebright stated when added to the two parking spaces required for a Single-Family Dwelling, a total of three parking spaces were required.

Planner Sebright presented a graphic that showed the applicant could accommodate three parking spaces on the property, with two in the garage and one on the driveway. He stated that there were additional criteria related to fencing, screening and landscaping, open space, signs and lighting, physical design, and noise and nuisances. With respect to fencing, screening, and noise, Planner Sebright stated that those would be discussed in detail in conjunction with Staff's third area of analysis.

Planner Sebright commented that the signs and lighting criteria required an additional Condition of Approval, and the applicant agreed that no outdoor lighting would be proposed or approved under the CUP. The applicant further agreed to limit the use of the court to daylight hours. The final criteria related to ownership, environmental sensitivity, and General Plan consistency were

addressed. Planner Sebright stated that this project was not located in an environmentally sensitive area and is nominally compliant with the General Plan as it pertains to Park Meadows.

Planner Sebright stated that the third analysis looked specifically at the criteria involving fencing, screening, and noise. As part of its review of this application, Staff reviewed a handful of studies conducted by municipalities that informed on how municipalities set out best practices and how they adopted their own codes, setbacks, and mitigation requirements. He explained that there is a large body of research regarding the noise impacts of pickleball courts and Staff was working to incorporate the findings of those studies, as they are able to process them.

For the applicant's property, the court is between 50 and 100 feet from the surrounding adjacent homes. The backyard has a six-foot-tall wooden fence and vegetation. Planner Sebright reported that the applicant agreed to limit the use of the court to daylight hours, which were set from 8:00 a.m. to 8:00 p.m. The applicant also agreed that no more than four players would use the court at a time. He added that the applicant agreed to these two Conditions of Approval.

Planner Sebright presented a further aerial image that illustrated the relation of the proposed court to neighboring homes. He reiterated that the distances range from 50 to 100 feet. Based on the initial research, Planner Sebright reported that Staff recommended some mitigation strategies. First, Staff recommended that the applicant install a 12-foot-tall noise-reducing fence around the court. He noted that there were professionally designed noise-reducing fences on the market, and Staff recommended one with a noise reduction co-efficient that could be verified based on the manufacturer's specifications. He noted that this was one of the first pickleball courts before Staff and the Commission for review, so Staff has recommended that the Commission review the proposed sports court both in the context of the Noise Ordinance and in the context of the neighborhood and the known setbacks from the neighboring homes to ensure adequate noise mitigations through the Conditions of Approval.

Planner Sebright stated that on January 11, 2022, the Development Review Committee reviewed the application, and Staff requested that they specifically look at the remaining concrete flatwork that would remain on the site setback. The Committee did not raise any issues at that time.

Staff received public comment regarding this application and the comments have raised a variety of concerns, including adequate setback distances and recommended noise mitigation strategies. Public comment also recommended consultation with an acoustic engineer or noise studies prior to developing mitigation strategies.

Planner Sebright stated that Staff was recommending that the Planning Commission review the Conditional Use Permit application for a Private Recreation Facility, hold a public hearing and suggest additional Conditions of Approval that could relate to noise mitigation. Staff further recommended that after the public comment and additional review, the Commission continue the item to a date uncertain to allow the applicant to incorporate the suggested Conditions of Approval into the application. Alternatively, he stated that the Commission could approve the application as conditioned or amended or deny the application and direct Staff to make findings.

Chair Suesser agreed with the recommendation that the Commission provide feedback and further mitigation strategies, listen to public input, and then continue this item. She added that the proposed 12-foot sound reducing wall was a good first step, but they still needed to do research and gather data as to the effectiveness of such walls and whether sound reducing

flooring and quiet paddles might also be potential mitigation strategies. Planner Sebright added that the applicant, Michelle Denton, was present.

Commissioner Johnson asked where the proposed fence will be installed. Planner Sebright explained that the fence would be installed around the location of the court but acknowledged that it had not yet been designed. Commissioner Johnson noted that the installation of the fence around the court would negate painting the portion of the pad that is within the setback. It was clarified that the fence would go around the pickleball court, not the entire concrete pad.

Commissioner Johnson commented that the sound studies referenced in the packet seemed to be a bit odd, because Pacific Grove showed 55 dBA or louder, while Scottsdale showed 39-55 dBA. He added that some of the public comment was very informative in that within 100 feet, it would be 70 dBA, and that noise-reducing fences would only reduce the sound by 12 dbas. He felt it important to conduct more research to find a better average so that they could have an accurate review.

Commissioner Van Dine agreed with Chair Suesser that this application needed to wait for more analysis and a better plan. She felt that the noise mitigation concerns expressed by the public were warranted, as were the statements that this pad was originally installed with the intention of making it a sports court.

Commissioner Hall noted that the aerial seemed to show a structure near the rear setback and the side setback near the carport and asked whether there were any other violations on this property. Planner Sebright confirmed that the concrete pad for the carport was an allowed use. He stated that Staff would provide further detail in a further report.

Ms. Denton explained that the structures at the back of the property are a shed and a greenhouse with raised beds. She also noted that she does not have a structure over the concrete pad for the carport, which has been present since 2014 and was part of the original Building Permit. In response to an inquiry from Chair Suesser, she confirmed that the shed was up against the fence and that it was movable. Ms. Denton noted that the shed has been present since 2014.

Director Milliken added that the shed would be an Accessory Structure, which is allowed in setbacks. She indicated that Staff would confirm that for the Commission.

In response to an inquiry from Commissioner Kenworthy, Planner Sebright confirmed that this item was properly noticed.

Chair Suesser opened the public hearing.

Bob Theobald stated that he had not yet seen the lines proposed to be painted on the court. He referenced his written comment and stated that he understood that the in-play boundaries were 44' x 20'. He did not know if the out-of-play boundaries were shown, so he would like to see the complete court, with the boundaries. He added that there could be more than four players in waiting, which should be addressed. Some of the potential mitigations, including softer paddles and flooring, would change the game. There would not be any serious pickleball players using softer paddles. He also felt that there should not be averages on the decibel levels; he suggested setting a limit that the neighbors could expect.

Frode Jensen reported that he approached Mr. Harrington to ask about seeking permission to speak for 15 minutes and was told that he should not make the request unless Mr. Harrington contacted him. Mr. Harrington later advised that he should be okay. Chair Suesser stated she would allow him to speak for 15 minutes or less. Mr. Jensen stated that he has been a resident of Park City for 10 years and lives in Park Meadows. He is a strong proponent of outdoor recreation and supports the right of property owners to enjoy their homes and their yards. He added that he holds no animus against any pickleball applicant and does not know any of them personally. He expressed his strong belief that the Commission and other arms of the City government must respect and enforce the Codes and laws. The laws were enacted for the benefit of all and must be enforced fairly for the benefit of all and not just individual applicants.

Mr. Jensen strongly opposed this application. He felt that if laws were not enforced fairly, trust in government would be seriously eroded. He was encouraged that Staff would propose amendments to the Code to address backyard pickleball courts. He offered that this application should fail under the existing Code provisions but was mindful of the extraordinary resourcefulness of some of the neighbors in finding ways to avoid the land use laws.

Mr. Jensen opined that this application violates the setbacks. He stated that simply painting a stripe on it could not cut off five to seven feet of the existing pad. The out-of-bounds play is just as much a part of the court as inside the lines. He felt that the proposal from the Planning Department makes no sense because the entire concrete pad would have to be used or there would not be a pickleball court large enough to play on. He added that the 12-foot fence would have to be installed outside the lines because people play outside the lines. He looked forward to receiving further information on that point.

Mr. Jensen stated that it appeared that Staff was back to arguing that a pickleball court is a patio. A pickleball court is a Recreation Facility and there is no exception for a game court in the setback. For that reason, this application should be denied unless the applicant came back with a configuration that fits within the setbacks, including the fence. He felt there was no need for further discussion on this application; however because the Conditional Use Permit application is in front of the Commission, the applicant could bring forth a proposal that does not violate the setbacks. He opined that the applicant was not entitled to a CUP based on the insufficient record.

Mr. Jensen indicated that the Planning Commission must make a decision based on specific facts supported in the record, and the facts must address the appropriate standards. Merely generic findings or simple conclusions are not enough. If the Findings of Fact state that an applicant met the requirements for the CUP, then those Conclusions of Law must state the legal requirement and how the applicant has met the legal requirement. He did not see that is the proposed Findings of Fact or Conclusions of Law. He added that determinations that are not supported by factual findings or a reasonable basis would be inherently arbitrary and capricious; the Planning Commission is not doing its job if it makes arbitrary decisions.

Mr. Jensen directed the Commission to the criteria in LMC Section 15-1-10(E) and addressed specific criteria as follows:

- Stormwater and spring snowmelt runoff: He stated that there is no reference to any consideration of where stormwater and snowmelt runoff would go after it collects on an 1800 square foot concrete pad. Water tables in Park Meadows are very high in some places and many basements already flood during the spring runoff.

- Fence: Mr. Jensen stated that the applicant did not prepare any fencing plan or design for a 12-foot high and 180-foot-long metal and plastic acoustic barrier fence. He calculated that this court would be 60 feet long, not 40 feet as suggested because there has to be a play area outside the lines. He was not aware of a fence of this size, height, and material located anywhere in Park Meadows and would like to see a justification for it. He would also like to know if the fence would survive the weather and elements in Park City. He referenced recent windstorms and questioned whether the fence would reflect or absorb heat during the summer. He also raised the issue of maintenance and enforcement to ensure that the fence remained in place.
- Site and Landscaping Plan: Mr. Jensen asked if the applicant submitted a Site or Landscaping Plan before this application was brought before the Commission. He referenced the Planning Commission requirements that the applicant must submit professionally prepared plans, including Site and Landscaping plans. He opined that the applicant made no showing regarding the design and appearance of the court or compatibility with the surrounding uses of houses, driveways, lawns, gardens, and wooded areas. He could not see how a concrete pad with a 12-foot fence would be a compatible use. He also could not see how the 12-foot fence would be screened from neighbors.
- General Plan: Mr. Jensen stated that neither the applicant nor Staff made any compelling argument that a noisy, 1800 square foot concrete pickleball court, surrounded by a 12-foot high 180-foot-long metal and plastic fence in a densely developed residential area was in any way consistent with the goals and objectives of the General Plan.
- Noise: Mr. Jensen stated that the Commission must carefully review the noise impacts on people and property offsite. He added that it was indisputable and a matter of public record that pickleball play has led to noise violation claims and nuisance disputes by and among owners, neighbors, clubs, municipalities, and HOA's all across the country. Due to the proximity of this pickleball court to neighbors in a densely developed residential area, the Commission must determine whether the noise created could be reduced to an acceptable level. He expressed that there are at least 20 houses within 300 feet of the proposed court. Staff acknowledged that pickleball play is extremely noisy, but the reports provided in the packet do not relate at all to the situation at Venus Court. One of the studies involved a country club where the nearest house was 300 feet away. He stressed that the research did not bear any resemblance to the situation on Venus Court, and he felt that a noise engineer should be hired to analyze the likely noise levels and determine the appropriate noise mitigation. While a 12-foot fence might work in a country club, it would not work in this situation since several of the neighbors have second stories and the noise would go straight to the second story.

Mr. Jensen added that a noise engineer should determine projected noise levels, whether the levels were likely to exceed City limits and whether a fence would actually work. He felt that the information in the report did not establish any of those issues. He has seen pickleball studies with decibel levels of up to 80 dBA at a distance of 75 feet. Mr. Jensen offered that decibel levels depend on weather, wind, location, and reflection and reiterated that a study would need to be done for this location.

He noted that he has read expert opinions that suggest that planners for acoustic issues review all court sites within 600 feet in advance. Courts located within 350 feet require careful noise abatement analysis, which has not been done in this instance. Courts

located less than 150 feet will have a significant impact on neighbors' quality of life and will require careful and extensive noise abatement measures to avoid complaints. Lastly, he reported that courts located within 75 feet in most cases could not be abated.

Mr. Jensen referenced his written comments regarding the consequences of building pickleball courts too close to homes. It leads to endless litigation, unhappy neighbors and produces a terrible result. It also leads to complaints that the market value of homes can diminish as a result of the courts.

Sara Werbelow gave her address as 2003 Venus Court and is the closest neighbor to this project. She appreciated the suggestion to continue this item to further study the noise mitigation tools, including a potential wall and noise-reducing paddles and balls. She looked forward to further study on how they could mitigate the noise impacts. She also appreciated the consideration of the hours of use from 8:00 a.m. to 8:00 p.m. Her bedroom is on the second level facing the pickleball court and requested that the Commission be as sensitive as possible to the hours, and potentially even tighten them up a bit.

Steven Grayson, who resides at 1990 Little Kate Road, directly south of the applicant's residence. His home is approximately 94 feet from the proposed pickleball court. His concerns were less related to the noise, which he felt would be occasional, but rather the presence of a 12-foot fence and what it would look like since his home looks directly into the backyard of the applicant's home. He also mentioned the prospect of degradation of the fence over time and required upkeep. He added that the tool used to mitigate the sound might be worse than the sound itself.

There were no further public comments. Chair Suesser closed the public hearing.

Commissioner Thimm expressed that he has looked to what ordinances are in place and he felt that continuing this item would be the correct course. He did not feel that there was enough information available. He did not feel that the prescriptive requirements were necessarily the right path; he felt the right path was to have an acoustical analysis performed by an acoustical engineer that could show that whatever noise is created could be mitigated to be within the City's noise ordinances. If the mitigations include the construction of walls or fences, then those would also need to be measured in terms of what the LMC would allow in terms of setbacks and heights. He felt that the design of any walls should be reviewed in terms of materials that are structurally sound, sustainable, and durable. Commissioner Thimm suggested the best course would be to continue this item and any future review include noise mitigation along with an LMC analysis of any of the suggested measures.

Chair Suesser understood that the site location could have an impact on an acoustical analysis and asked Commissioner Thimm whether he was suggesting a general analysis only that would be applied to each pickleball court application. Commissioner Thimm clarified that he was suggesting a site-specific acoustical analysis.

Commissioner Thimm added that the issue was more that of the sound produced at the property line rather than where an existing house is located. He felt that the findings should focus on the strict enforcement of the noise ordinances.

With respect to the comments regarding impacts on a second story, Commissioner Thimm stated that the acoustical analysis should take elevations into account.

Chair Suesser expressed that the Commission should consider that they were going to potentially continue this application and then consider another pickleball court application. She suggested that thought should be given as to how to approach these applications going forward and the standards and mitigation measures they want to put in place. Staff would continue to research this and bring back some further information so that they could refine those mitigation measures. She also suggested that the Commission should consider whether they want to review these applications in a CUP format, or whether they should be subject to administrative review.

Chair Suesser clarified that Staff recommended that the Commission provide feedback on proposed mitigation measures and continue this application. She referenced Commissioner Thimm's suggestion of an acoustical analysis and invited any other suggested mitigation measures for consideration by Staff and the applicant.

Commissioner Johnson agreed with the suggestion of an acoustical analysis. He expressed that based on the written and verbal public comment, three of the four property owners that share a fence with this property have an issue with this application. He suggested that Staff have further conversations with these homeowners prior to the next meeting.

Commissioner Kenworthy requested a site-specific plan with the regulation-sized court. He noted that the play would go beyond the boundary line. He would also like to see the fence included in detail on the court. He also expressed agreement with Commissioner Thimm's request.

Chair Suesser agreed that a better understanding of the court size and boundaries would be helpful to understanding how much court area would be required.

Commissioner Hall added that she would like to look at this in the bigger picture and asked whether they could look at these together so that they would not see these unusual conversions of a use. She agreed with Commissioner Van Dine's suggestion to direct Staff to look at a larger scope.

Chair Suesser agreed and referenced the comments in the presentation that Staff received information regarding the intended use of the permitted patio as a pickleball court. Chair Suesser added that the impacts of different sports courts were significant and questioned whether they could regulate all of the different types of courts in the same way.

Commissioner Hall felt like they were putting the cart before the horse and there was so much work to be done that she would like to continue this item to a date uncertain.

Director Milliken commented that as part of the LMC Amendments, the Planning Department would be looking at sports courts that have multiple uses. She noted that there would potentially be less impact with shared courts.

Chair Suesser commented that different pickle balls and/or court surfaces change the sport and felt that they should look into some reasonable mitigation measures that would not change the sport. She cautioned Staff about looking into those sport-altering strategies.

Commissioner Hall agreed with the public comment that asked if the mitigation was worse than the issue they would be trying to solve.

MOTION: Commissioner Hall moved to continue the 1961 Venus Court Conditional Use Permit Application to a date uncertain. Commissioner Johnson seconded the motion.

VOTE: Commissioner Thimm-Aye; Commissioner Kenworthy-Aye; Commissioner Van Dine-Aye; Commissioner Suesser-Aye; Commissioner Hall-Aye; Commissioner Johnson-Aye. The motion passed unanimously.

Commissioner Thimm added that in terms of the General Plan, the creation of outdoor multi-generational activities is encouraged and well within the bounds of the General Plan. Commissioner Hall agreed. Chair Suesser also agreed but was cautious of permitting them in residential neighborhoods when they have significant impacts on the neighbors.

C. 2089 Equestrian Court - Conditional Use Permit - The Applicant Requests a Conditional Use Permit for an Existing Sports Court, a Private Recreation Facility, in the Single Family (SF) Zoning District. PL-21-05021

Commissioner Van Dine recused herself from this item and left the meeting.

City Planner, Spencer Cawley reported that he was joined by the applicant and the applicant's representative. He explained that the applicant was requesting a Conditional Use Permit for a Recreational Use of an existing sports court, which is a Private Recreation Facility. The site is located in the same subdivision as the previous application. He highlighted some important distinctions as to this property and this sports court. While this site sits in the Single-Family zone, it abuts against a Recreation Open Space area.

Planner Cawley reported that in May 2020, a Building Permit with a Landscape Plan was submitted to the City. In June 2021, Snyderville Basin Water Reclamation District, as part of the review of this permit, submitted a letter of support that stated the landscaping encroached into a 50-foot utility easement on the east property line, but they had no issues with the encroachment. This letter was attached to the Staff Report as Exhibit C. In June 2021, the Building, Engineering, and Planning Departments approved the Landscape Plan as part of the Building Permit. In October 2021, the Planning Department received the CUP application, and it was deemed complete one week later.

Planner Cawley included the original Landscape Plan that was approved, and which identified the sports court as part of the approval. He noted that the Landscape Plan did not show the specifics of the sports court; the City interpreted it as a patio or concrete pad allowed to be within one foot of the setback as long as it was not more than 30 inches tall. The applicant complied with this requirement when they moved forward with the project.

Planner Cawley addressed the unique circumstances of this lot and noted that it has more than four sides. Pursuant to the LMC, lots with more than four sides are allowed to have an additional side setback as determined by the Director. He reported that on January 4, 2022, the Director set this determination for the setbacks.

Planner Cawley explained that this property has an existing land buffer to the immediate east. There is also a small berm that separates the property from a trail and beyond that is the green open space to the east. He showed a graphic depicting the sports court and reiterated that it was labeled as a sports court at the time it was planned. He stated that pickleball was not the sole purpose of this court and was included as part of a full rebuild that would allow the family to enjoy

their yard together. He stated that there was support for this court from neighboring property owners.

Planner Cawley presented photographs of the sports court to the Commission. He explained that the court is situated slightly askew so that it does not follow parallel to the property line, although further to the northeast it does come closer to the property line.

Planner Cawley reported that the proposal complies with the Single-Family zoning district Lot and Site requirements in terms of density and front and rear setbacks. He explained that one of the Conditions of Approval is related to structure height. The applicant indicated that they have removable netting to prevent balls from going over the fence during play; the netting would not exceed 10 feet in height and the applicant agreed to obtain approval for the net through an Administrative CUP.

With regard to the second analysis, Planner Cawley reported that the proposal met the less restrictive side setback requirements for patios or concrete slabs in the Single-Family zone. The side setback is 12 feet for each side. Per the LMC, there is a one-foot setback for these concrete pads. He stated that the applicant constructed the sports court according to the approved plans and did not deviate from those plans. It is the use that triggered the requirement for a CUP. Staff agreed that the sports court and the use of the sports court remain as is, given the site conditions and the mitigation resulting from the adjacent open space.

Planner Cawley next addressed the CUP criteria and indicated that Staff recommended that the Planning Commission evaluate these conditions to mitigate noise and nuisance as necessary. With respect to the size and location of the site, Planner Cawley noted that the lot is just over one-half acre; however, the sports court is on the side of the property east of the main structure and abuts the open space. There is mature landscaping that shields the sports court from the right-of-way and neighboring properties. He stated that there was no issue with traffic capacity and no changes proposed for emergency vehicle access. He stated because the sports court sits atop a 50-foot-wide utility easement, a review by the Snyderville Basin Water Reclamation District was completed. Because the improvements are surface only, the sports court would not impact any existing utilities.

Planner Cawley stated that with respect to off-street parking, Conditions of Approval 4 and 5 provide that the applicant agreed to limit use of the sports court to four persons at a time and agreed to prohibit parking on Equestrian Court. The applicant has four off-street parking spaces available.

Planner Cawley stated that there was no unmitigated impact on vehicle and pedestrian circulation. The structure conforms to mass, bulk, and orientation as set forth in the LMC. He stated that there are no open space requirements for a single-family dwelling and the addition of the sports court does not change that.

The applicant stated that there was no existing lighting, and they would not install outdoor lighting on or near the sports court. This is also included as a Condition of Approval. He reported that Staff found no unmitigated impacts with regards to the physical design and compatibility with surrounding structures because the equipment and improvements are similar in design and scale for this subdivision. He explained that the General Plan allows for a sense of community for those who choose to live in Park City full-time and this is an applicant who has chosen to make this their full-time home and they should have the right to enjoy the community in which they live.

Planner Cawley stated that there were no unmitigated impacts with the remaining CUP criteria. He stated that Staff recommended that the Commission evaluate conditions for mitigation in accordance with the LMC for fencing, screening, and noise. Staff found that there were only six houses, not including the applicants, that are within 300 feet of the sports court. The nearest neighboring structure is over 100 feet away, and there is existing mature landscaping that helps to visibly shield the sports court. There is also an existing split-rail fence and there would be no changes to the fencing. He reported that the applicant understands the need for noise mitigation. The first Condition of Approval would limit the use of the sports court to daylight hours (8:00 a.m. to 8:00 p.m.) This would also be dependent upon seasonal daylight. The applicant also agreed to limit the use of the court to four players.

The applicant indicated that the sports court was constructed with noise-absorbing tiles to help mitigate excess noise, and they would continue to maintain those tiles as necessary. Planner Cawley reported that based on the full review by Planning, Engineering, and Legal, the only issue raised was from the Snyderville Basin Water Reclamation District. Staff received five letters of support from neighbors, which are included as Exhibit G. The theme of these letters of support was that this is a community, and they expect noise from their neighbors and understand that if there were issues, they could discuss them as needed.

Staff recommended that the Planning Commission review the request for the CUP, hold a public hearing and consider approving this CUP, as conditioned in the Draft Final Action letter. He added that if approval was not considered tonight, the Commission could deny the application or continue the matter to a date uncertain.

Chair Suesser asked about the exploration of further mitigation if a certain number of complaints were received. She appreciated that the current neighbors were supportive but noted that ownership changes and they need to protect the rights of future owners as well. Planner Cawley stated that this was addressed in Condition of Approval #1 states that if within one year of approval the Planning Department receives three noise complaints, then the applicant would meet with Planning to review further mitigation.

Chair Suesser suggested that the Commission consider changing that Condition of Approval to three complaints in any given year.

Commissioner Kenworthy asked to see the easement and questioned whether Snyderville Basin required any language in the approval for access onto the property or compensation. Planner Cawley was not aware of any such requested language.

Chair Suesser opened the public hearing.

Ariel Vernell was identified as the Landscape Architect for the project. She stated that the original survey showed the easement, which goes up to the house. There was a handshake agreement that if Snyderville was required to come into the property to access the sewer line, then it would be on the homeowner to cover the cost. Commissioner Kenworthy asked if the applicant would not be averse to including that as a Condition of Approval.

Joe Cronley is the homeowner and has owned the property since 2006. He stated that they tore down the home and built a new structure during COVID-19. The plans were provided to the City, and they were granted approval in May/June 2021. They built out the Landscape Plan and during

final approval in 2021 the inspector said the sports court should never have been approved. They were then informed that they needed to apply for a CUP. He clarified that the sports court is 30' x 60' and is lined for basketball, pickleball, volleyball, and badminton. They have two children, aged 10 and 12. They had never played pickleball and built the court for something fun to do along with the other sports the court can accommodate. Mr. Cronley stated that there are no houses within 100 feet from the sports court and their home blocks the view of the sports court to most of their neighbors. He reiterated the support of the neighbors and mentioned a recently received letter of support from the School District.

Chair Suesser asked about the specialty tiles used for the court. Mr. Cronley explained that they used a company called Snap Sport, a Utah company that installed the plastic tiles that dampen the sound.

There were no further public comments. Chair Suesser closed the public hearing.

Commissioner Hall commented that Staff and the applicant did a thorough job presenting this application.

Commissioner Thimm asked if the Noise Ordinance applied to noise impacts on property zoned Recreation Open Space. Planner Cawley answered in the affirmative and believed that the ordinance applied to all zones regardless of use. Commissioner Thimm suggested that for purposes of consistency, the requirements imposed on all applicants should be the same. He concluded that there might need to be an acoustical analysis by an acoustical engineer to see if there would be any infringement on the Noise Ordinance and suggested that this item be continued to allow that to occur.

Commissioner Kenworthy agreed and felt that part of the mitigation could be that the neighbor adjacent to the property be comfortable with the study. He agreed that the Commission needed to be consistent.

Commissioner Hall agreed that the Commission needed to be consistent. She was under the impression that there was not any structure within 100 feet, which she thought was the ceiling for the distance being considered for the LMC Amendment.

Planner Cawley noted that the nearest neighbor was approximately 125 – 130 feet away. Commissioner Thimm reminded that the presentation by Director Milliken were suggestions and not something that the City had acted on as of yet. He felt that the distances would have less bearing than the requirement of an acoustical analysis.

Chair Suesser noted that the analysis goes to the property line, and although the adjacent property is Recreational Open Space, it could still impact anyone enjoying that space. It was confirmed that the noise impacts would only pertain to pickleball.

Commissioner Johnson agreed with Commissioners Thimm and Kenworthy.

Director Milliken sought clarification given that the sports court was designed for multiple sports. She understood that a continuance would be related only to the use of pickleball. Commissioner Thimm gleaned that the issue from the earlier presentation had to do with the noise from pickleball; as far as other uses of the yard, he did not include those uses in any part of his suggestion. Commissioners Kenworthy and Johnson agreed.

In response to an inquiry from Commissioner Hall, Director Milliken explained that a sports court is a Conditional Use. While this sports court was granted a Building Permit, that permit does not address the use. This application seeks a CUP to use it as a sports court.

Director Milliken asked the Planning Commission to give direction as to the use of the sports court in the interim. City Attorney Harrington stated that an option was that the Commission could allow the other uses, depending on whether Commissioner Thimm's request was supported by the majority of the Commission in terms of the scope of the study requested. He cautioned the Commission to be clear on the expectation of review.

Commissioner Thimm stated that his concern was solely with pickleball and no other sport. He was open to looking at this as a partial approval for other sports or continuing the matter.

Commissioner Hall asked if, from a Staff perspective, this would create a two-part application and if so, would the applicant be amenable to proceeding in that way. City Attorney Harrington explained that there could be a partial approval and that two separate applications would be unnecessary.

Commissioner Kenworthy was amenable to bifurcating the issues and addressing the pickleball issues consistently.

Chair Suesser understood that the Commission could partially approve the CUP with respect to use of the sports court for all sports other than pickleball and continue the CUP with respect to pickleball use of the sports court.

Commissioner Thimm suggested a Condition of Approval excluding the pickleball use of the sports court and then amend the approval to include pickleball if everything is mitigated to everyone's satisfaction.

Mr. Cronley stated that he would agree with the bifurcated approval and continuance of the pickleball discussion.

MOTION: Commissioner Thimm moved to approve the Conditional Use Permit for 2089 Equestrian Court, based upon the

Findings of Fact:

1. The property is located at 2089 Equestrian Court, Lot 12 of the Park Meadows Subdivision, No. 5.
2. The property is in the Single Family (SF) District and is adjacent to an area zoned as Recreation Open Space.
3. The Lot contains 0.597 acres.
4. Private Recreation Facilities are a Conditional Use in the SF Zoning District and require Planning Commission review and approval.

5. On October 11, 2021, the Planning Department received a Conditional Use Permit Application to use an existing sports court as a Private Recreation Facility.
6. On October 18, 2021, the Planning Department determined the Conditional Use Permit Application complete.
7. The minimum front Setback for the SF Zoning District is 20 feet.
8. The minimum rear Setback for the SF Zoning District is 15 feet.
9. The minimum side Setback for the SF Zoning District is 12 feet, each.
10. 2089 Equestrian Court has an unusual Lot configuration with more than four (4) sides. On January 4, 2022, the Planning Director determined that the Lot has three side Setbacks, one front Setback, and one rear Setback.
11. The sports court is one foot (1') from the east Lot Line and sits within the Side Setbacks.
12. The Structure height does not exceed 18 feet, the maximum height for an Accessory Structure.
13. Conditional Use Permits require review pursuant to the criteria outlined in Land Management Code § 15-1-10(E).
 - a. Size and Location of Site—No unmitigated impacts. The Lot is 0.597 acres. The sports court is in the side yard of the property, east of the main Structure. This portion of the property abuts Recreation Open Space.
 - b. Traffic capacity—No unmitigated impacts. No additional traffic will be generated by the Private Recreation Facility.
 - c. Utility capacity—No unmitigated impacts. The sports court sits atop a 50' wide utility easement. However, the Snyderville Basin Water Reclamation District notes these are surface improvements only and will not impact existing utilities or increase utility demands.
 - d. Emergency vehicle access—Not applicable. No changes to property access are proposed.
 - e. Off-street parking—Condition of Approval 4 and 5. LMC § 15-3-6(B) requires one (1) parking space per four (4) persons maximum rated capacity for a Private Recreation Facility. The Applicant has indicated that the sports court will be used by no more than four (4) players at a time. LMC § 15-3-6(A) requires two (2) parking spaces per Dwelling Unit for a Single-Family Dwelling. A total of four (4) off-street parking spaces are provided. Two enclosed in a garage, and two located on the driveway. Parking for the sports court shall be provided on site. Parking on Equestrian Court is prohibited.

- f. Internal vehicle and pedestrian circulation—No unmitigated impacts. The sports court will be used primarily by the residents of 2089 Equestrian Court and their invited guests which will not change the Lot's vehicle and pedestrian circulation.
- g. Fencing, screening, landscaping, to separate use from adjoining properties—No unmitigated impacts. The property is adjacent to the fields used by Treasure Mountain Junior High School. This area is zoned Recreation Open Space. Existing mature trees help partially shield the sports court from neighboring properties. An existing split-rail fence marks the Lot line. No change to the fencing is proposed.
- h. Structure mass, bulk, and orientation—No unmitigated impacts. The project conforms with all applicable sections of the LMC regulating mass, bulk, and orientation.
- i. Useable open space—Not applicable. There are no open space requirements for a Single-Family Dwelling. The addition of the sports court does not change the amount of useable Open Space on the Lot.
- j. Signs and lighting—Condition of Approval 6. No signs or outdoor lighting are proposed or approved under this CUP.
- k. Physical design and compatibility with surrounding structures—No unmitigated impacts. Recreation Equipment improvements to the sports court, including netting and a basketball standard, are similar in design and scale in this Subdivision.
- l. Noise, vibration, odors, steam, or other mechanical factors—Condition of Approval No. 4 and 5. Between 10:00 p.m. and 6:00 a.m., the Maximum Permissible Sound Level for a Residential Use District is 50dBA. Between 6:00 a.m. and 10:00 p.m., the Maximum Permissible Sound Level for a Residential Use District is 55dBA.
- m. Control of delivery and service vehicles, loading and unloading, screening of trash and recycling pickup areas—Not applicable. No changes are proposed for delivery and service vehicles, trash, and recycling management.
- n. Expected ownership—No unmitigated impacts. No change in ownership is proposed.
- o. Environmentally Sensitive Lands Physical Hazards, Historic Mining Waste, Park City Soils Ordinance, Steep Slope—Not applicable. The property is not located in any Overlay Zones, Environmentally Sensitive Lands, Park City Soil Ordinance Parcels, or Steep Slopes.
- p. General Plan Consistency—Complies. The property is located within the Park Meadows Subdivision and is the Applicant's primary residence. The

General Plan calls out the importance for developing a Sense of Community for those that choose to live in Park City full-time. Goal 7 of the General Plan shows that the City strives to create a diversity of primary housing opportunities, allowing full-time residents to have local options for work and play.

Conclusions of Law:

1. The Application complies with all requirements of the LMC.
2. The Use is compatible with the surrounding Structures in Use, scale, mass, and circulation.
3. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval:

1. If the Planning Department receives three (3) noise complaints in any given year, then the Applicant will meet with the Planning Commission to review further mitigations.
2. The Applicant shall obtain approval for the net through an Administrative CUP.
3. No additional Uses or improvements to the sports court are allowed without a permit application and review. No improvements are allowed in the side yard setback, unless this CUP is amended by the Planning Commission following public hearing, and such improvements comply with the LMC in effect at the time of application.
4. Activity is limited to no more than four (4) players at any time.
5. A total of four (4) off-street parking spaces are provided. Two enclosed in a garage, and two located on the driveway. Parking for the sports court shall be provided on site. Parking on Equestrian Court is prohibited.
6. The Applicant shall limit the Use of the sports court to daylight hours (8:00 A.M. – 8:00 P.M.).
7. The Applicant shall not install outdoor lighting on or near the sports court.
8. The Applicant shall maintain specialty tiles that help absorb excess noise better than unimproved concrete.
9. The Use of the sports court for Pickleball is not allowed unless otherwise approved by the Planning Commission after further review consistent with the direction of the Commission.

Commissioner Kenworthy seconded the motion.

VOTE: Commissioner Hall-Aye; Commissioner Johnson-Aye; Chair Suesser-Aye; Commissioner Thimm-Aye; Commissioner Kenworthy-Aye. The motion passed with the unanimous consent of the Commission members present. Commissioner Van Dine recused herself from this vote.

Mr. Harrington stated that Staff would amend the Findings to remove the references to pickleball to a sports court and would be provided for final signature for Chair Suesser.

5. ADJOURN

MOTION: Commissioner Thimm moved to adjourn.

The meeting adjourned at approximately 9:00 p.m.

APPROVED 02.16.2022