PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
DECEMBER 9, 2020

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Laura Suesser, Sarah Hall, John Kenworthy, Doug Thimm

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

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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 8-2020, adopted March 19, 2020. The written determination of a substantial health and safety risk, required by Utah Code section 52-4-207(4), is attached as Exhibit A. Planning Commission members will connect electronically. Public comments will be accepted virtually as described below.

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

Exhibit A: Determination of Substantial Health and Safety Risk

On November 18, 2020 the Commission Chairperson 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:

• Governor Herbert declared a Covid-19 State of Emergency on November 8, 2020. Summit County has extended its Emergency Declaration and Public Health Emergency Declaration through January 8, 2021. • Statewide COVID cases and hospitalizations are increasing exponentially. This determination is valid for 30 days and is set to expire on December 18, 2020.

Dated November 18, 2020.

ROLL CALL

Vice-Chair Suesser called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioners Phillips and Van Dine, who were excused.

APPROVAL OF MINUTES

November 11, 2020 & November 18, 2020

Commissioner Thimm referred to the Minutes of November 11th on page 13 of the Staff report, fourth paragraph, second sentence, and changed She stated to read correctly read **He stated** since he was the one making the comment.

MOTION: Commissioner Thimm moved to APPROVE the Minutes of November 11, 2020 and November 18, 2020 with the amendment to the November 11th minutes. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

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

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

City Attorney Mark Harrington noted that the Staff report contained an update regarding the status of the Land Management Code Amendments. The Commissioners had no questions regarding the update.

WORK SESSION

5.A. Open and Public Meetings Act Training

City Attorney Mark Harrington stated that his training would be brief because two Planning Commissioners were absent, and he would need to do another training when new Commissioners are appointed. He would come back with a more in-depth presentation in January or February on the Open and Public Meetings Act in conjunction with an Ethics training.

City Attorney Harrington stated that the Open and Public Meetings Act is a State law that is required for all public bodies. The Chairperson is technically responsible for making sure training occurs once a year. Mr. Harrington noted that the annual training usually occurs in December for the public body, and individually as new members are appointed to the Planning Commission.

City Attorney Harrington stated that the main person of the Act is to make sure government business is done openly. Open means in public. It runs tandem with the ex parte rules that make the Commissioners pay attention to whether they are acting in a legislative or administrative capacity. Mr. Harrington remarked that for legislative matters, the Commissioners have the ability to talk to people outside of the meeting to get a pulse of the community on legislative recommendations. However, 95% of what the Planning Commission does is administrative in processing applications with public hearings. The business of administrative hearings should be conducted at the public hearing. On administrative matters the Commissioners cannot debate outside of the meeting or take testimony that the applicant does not have the benefit of hearing.

City Attorney remarked that the best way to self-police is to think of themselves as the applicant and whether they believe the way the decision rendered was fair, or how they would feel if they saw their application being discussed with others outside of the meeting. Mr. Harrington recognized that in a small town it is easy for someone to stop them at the post office or in a grocery store. If that happens the Commissioner should disclose that encounter at the meeting. Mr. Harrington stated that he would go over those requirements and the procedure when he does the more in-depth training.

City Attorney Harrington reminded the Planning Commission that four or more Commissioners constitutes a quorum, and they cannot meet outside of a public meeting. When there are four or more Commissioners, they need to follow the requirements for noticing, an agenda, and the public needs to have access.

City Attorney Harrington presented a slide showing an example of being cornered by someone in a public place. The conversation might start as someone just asking about the status of an item, but it can easily gravitate into a substantive conversation. If there are four or more Commissioners present it can be considered a meeting. The Commissioners should try end the conversation and encourage that person to attend the public meeting where the entire Planning Commission can hear what they have to say.

City Attorney Harrington stated that video and electronic meetings are a little more difficult. He presented a slide to address this issue. As they use these new systems, they need to be careful because they are able to text and do other things when they are off camera. In a public meeting they cannot do other things, particularly with one another. The Planning Commission cannot text or have communication that the public cannot see. Mr. Harrington pointed out that the Planning Commission participates in the virtual meeting the same as they would if they were at the dais, and their questions and deliberations should be done openly.

City Attorney Harrington stated that in terms of being in an emergency situation and addressing public comments, the basic requirement is to distinguish public hearings from informal public input. This can be done in a number of ways. Sometimes the Chair acknowledges the opportunity for public input and public input is provided for at the beginning of every meeting on any matter not on the agenda. During the public hearing, the public has the right to comment on the matter. Mr. Harrington noted that since these meetings are virtual, the Staff has tried to adapt for comments that come in electronically prior to the meeting, the day of the meeting, and during the actual public hearing as they work through some of the system issues.

City Attorney Harrington advised the Board to always err on the side of allowing the public the opportunity to comment.

City Attorney Harrington stated that in terms of additional rules or changes, the Planning Commission has the ability as a group to adopt more rules. For the purpose of simplicity for the Staff and for technology, the Planning Commission meetings are set up to operate as close as possible to how the City Council operates. However, as a body, the Planning Commission has the ability to adopt their own rules if they prefer to operate differently, as long as the rules are not in conflict with State law.

City Attorney Harrington reminded the Commissioners that conducting a meeting through media is different than being at a live meeting that is not recording. He stated that recordings can be used differently after the fact, and they should be conscious that they are on camera and being recorded.

City Attorney Harrington stated that the Planning Commission has the ability for closed meetings; however, the Planning Commission rarely has a closed meeting unless litigation is involved on a matter than involves the Planning Commission.

City Attorney Harrington stated that Open Meetings Acts are not enforced by him or his office. They are enforced by the Attorney General, by the County Attorney, or a private lawsuit. It is important to take the rules seriously because the consequences are real and have great ramifications.

City Attorney Harrington encouraged the Commissioners to read through the presentation provided in the Staff report and to contact him if they have questions. He reiterated that he would be doing a more in-depth training after the first of the year.

5.B. Land Management Code Amendment – The Planning Commission will Consider Updates to the City's Outdoor Lighting Regulations, Land Management Code § 15-5-5(J), to Align with Summit County's Recently-Adopted Code and the International Dark-Sky Association Standards to Set Maximum Lumens for Fixtures and Properties, to Prevent Harsh Lighting with a Maximum of 3,000 degrees Kelvin, and to Fully Shield Lighting.

Planner Liz Jackson stated that Planner Rebecca Ward would be participating in this presentation. Sargent Jay Randall from the Park City Police Department was also on the line to speak about public safety.

Planner Jackson stated that objective this evening was to discuss the amendments they brought forward in November regarding outdoor lighting, and how they addressed the concerns and suggestions raised by the Planning Commission at the November meetings.

Planner Jackson reported that this amendment is an aspect of the Park City General Plan which recommends that a new night sky ordinance be brought forward in order to achieve Goal 5 – Environmental Mitigation. She noted that mitigation of the impacts of outdoor lighting is currently in the LMC, but it has not been updated since 1998. In February 2020, the Planning Commission identified updates to the outdoor lighting as a priority. Planner Jackson stated that following that direction, the Staff commenced community outreach and research for potential Code updates. She thanked the 306 community members who participated in the survey, and anyone who provided comment or participated in the virtual community sessions.

Planner Jackson noted that in September the Planning Commission had their first work session. In October the survey was initiated, as well as the Engage Park City page with information about the potential amendments and ways to get involved. The Staff held virtual community discussions in October and November, and on November 11th they brought the proposed amendment to the Planning Commission for review and feedback.

Planner Jackson reported that the purpose of the work session this evening is to obtain feedback from the Planning Commission on the changes made to the amendment based on their input at the last meeting. The Staff would like to bring this back to the Planning Commission for a public hearing on January 13th.

Planner Jackson stated that streetlights were brought up at the last meeting and the Staff was requesting additional feedback. She remarked that streetlights are currently regulated through the Engineering Department. Streetlights and public trail lighting are exempt from the proposed Code, and these lights stay on all night. Planner Jackson reported that in January of 2021, Rocky Mountain Power will provide an option to update cobra headlights on their poles with IDA compliant lights. The Staff intends to look into this option.

Planner Ward reviewed the changes that were made to the Code based on input at the November meeting. The first related to seasonal lights. Planner Ward stated that the proposed amendments align with Summit County's timeline, which is from November 15th through March 1st. This change would reduce the time the lights are allowed to be up by six weeks. Planner Ward stated that currently the Code requires residential lights to be turned off by midnight. The Staff was proposing a change to 11:00 p.m. The Staff was also proposing that holiday lights comply with zone required setbacks to help mitigate some of the impact on neighboring properties. Planner Ward stated that holiday or seasonal lights should not trespass onto other properties.

Planner Ward commented on the buildings outlined in lights on Main Street, Swede, and some commercials uses in the General Commercial Zone that were discussed at the last meeting. The Staff was proposing that those buildings be exempt from the November 1st to April 15th timeline. Planner Ward noted that currently the Code requires those lights be turned off at midnight; however, the Staff was proposing that it be extended to 2:30 a.m. based on input from the Commissioners in November, as well as input from HPCA.

Planner Ward stated that the proposed amendment would also distinguish string lights from seasonal lights, such as the small white incandescent bulbs that are used for outdoor dining, decks, and patios.

Planner Ward noted that there were concerns that if the Code was drafted to apply to existing properties, that it might result in unnecessary waste. She noted that there are opportunities for existing light fixtures to be altered so they can comply without being fully replaced. If the fixtures need to be replaced, most metal fixtures and LED, CFL, and fluorescent bulbs can be recycled. Planner Ward stated that the Staff added some exemptions for low lumen lights along the lines of what Summit County and Moab have in their adopted standards. Therefore, some existing fixtures could comply and only the bulb would need to be replaced. They also exempted certain lights that meet the 3000 degrees Kelvin requirement, as long as they are shielded by a roof overhang.

Planner Ward commented on outdoor lights and public safety. She stated that the amendments are not proposing less lighting, but rather better lighting. The Staff reached out to Summit County and Moab, Fort Collins, Colorado, Flagstaff, Arizona, and other communities that have already enacted updated outdoor lighting amendments. Planner Ward stated that Fort Collins, Colorado has required fully shielded fixtures for residential uses since 2012. For multi-unit dwellings, Fort Collins has required fully shielded fixtures for over two decades. Planner Ward noted that the complaints in that community is that it does not go far enough, and people want to see more regulations to reduce light. Planner Ward stated that Flagstaff Arizona was the first community to enact an outdoor lighting ordinance in 1958. Flagstaff was designated a dark sky place in 2001. Planner Ward remarked that Flagstaff required low pressure sodium lights, which have safety implications. The Code was updated to also include LED requirements because those lights improve visibility at night.

Planner Ward stated that since 2015 the City streetlight policy has already been to install lights that comply with what the Staff was proposing for the LMC amendments. The fixtures are fully shielded, and the bulbs are 2700 degrees Kelvin.

Sargent Randall provided input on behalf of the Public Safety Department. Sargent Randall stated that they wanted to research how lighting impacts crime. He noted that numerous studies ranging from the 1950 to as current as 2015, that talk about the differing aspects. Whether they impact crime depends on the lighting and the amount of lighting. Sargent Randall stated that reading through the studies there is very little support that lighting completely eliminates or has a dramatic impact. However, they have seen a decrease in crime in certain areas not only because of lighting, but in conjunction with other public safety interventions and crime solving techniques.

Sargent Randall stated that there were 13 different published studies in 2008. He names several other studies from 1991, 1997, 2000. He noted that the studies typically include a study area and one or two control areas adjacent to that study area. In those studies, they found a minor increase from when the study started to its end in those control areas, and the belief is that some of the crime was pushed to those areas rather than in the area being studied. Mr. Randall remarked that the results range from no decrease in crime up to approximately 21% decrease in crime. He stated that Park City has already been doing things to decrease crime such as community outreach programs, officer sector responsibilities, and other public safety interventions for many years.

Sargent Randall stated that there is theory and actual practice. It is difficult to conduct a study because it is very expensive. In addition, they run into other issues in terms of the type of crime and the areas being discussed. Park City is different from many other areas, particularly inner cities, where lighting could definitely have an impact. Mr. Sargent remarked that there is also a lot of theory. Certain things support lighting and the amount of lighting that Public Safety would like to see, and some of that is personal and some is from things they have done in the past. Oftentimes during an investigation, they have the opportunity to interview suspects and learn from them what they look for or try to avoid when committing a crime.

Sargent Randall stated that there are two different types of crime. One is crimes of opportunity, which are vehicle burglaries, petty thefts, etc., and those are most impacted when it comes to lighting. These are crimes of opportunity from people leaving items on their car seats or similar situations. However, they find that most criminals who opened up to them over the years have said that because they are crimes of opportunity the look for areas where they would less likely be seen or identified. Some of those include lit areas or homes with security systems or different types of lighting. Sargent Randall clarified that the Public Safety Department is less concerned with the type of lighting and are more concerned with moving completely away from lighting. He stated that through the studies they have come to understand certain types of light that can enhance crime solving ability because you can actually see beyond the light instead being blinded by the light. When you are blinded by the light you cannot see the shadows where criminals will typically hide. Sargent Randall did not think the objective of the proposed amendments was to move completely away from lighting.

Sargent Randall reported that through the studies they found that the UK had a greater decrease in crime through systematic lighting and targeted lighting than the United States. However, areas like Park City are a lot less likely to have the quantity and types of petty crimes as the inner cities and other places.

Sargent Randall commented on violent crimes such as domestic violence and noted that the studies have been clear, and criminals have testified to the fact that lighting is less of a factor. People committing violent crimes will go ahead and commit the crime regardless of lighting or interventions in place by a homeowner.

Sargent Randall stated that he did an informal study of people he works with and the vast majority of police officers will do home lighting in a way that they think will help deter crime. In addition to a criminal hesitating to approach a lighted home for fear of being seen, if a home with no lighting has a crime, the crime is more difficult to solve because it takes away the ability to identify who committed the crime. Sargent Ranch did not believe there was much difference between warm lighting versus bright lighting. However, warm lighting drastically decreases the shadows where criminals can hide.

From the standpoint of a police officer, the type of lighting is important as far as where it is placed and how it is affixed. However, having lighting of any kind is the most important because anyone watching will notice if something looks suspicious or out of place.

Sargent Randall offered to forward the studies he referenced if the Commissioners were interested in seeing them.

Planner Ward stated that Sargent Randall and the Staff were prepared to answer questions. The Staff would also come back with these amendments for a public hearing on January 13th.

Vice-Chair Suesser opened the public hearing.

Ed Parigian raised his hand on Zoom and was unmuted to speak.

Mr. Parigian stated that this was a great initiative, and it was a long time coming. He understood that the objective was to get the International Dark Sky designation, but he did not think it was a good idea primarily because these regulations will not actually give a dark sky. It may only keep the skies how they are now if it can be enforced. Mr. Parigian could not see the need to advertise being a dark sky community when that will not be the case. He thought the proposed regulations were a good start, but they need to go further in order to be dark sky. Mr. Parigian did not think there was a reason to change the streetlights. He appreciated the process, but he felt that becoming an official dark sky town was setting them up for failure because the proposed amendments would not achieve dark sky.

Vice-Chair Suesser asked the Staff to explain the impetus for becoming an International Dark Sky Association. Planner Ward clarified that the Staff was not proposing a dark sky designation as part of the Code. That question was included in the survey when they reached out to the community for input, and 63% of the respondents were interested in that that designation. Planner Ward stated that the proposed amendments were limited to updating the outdoor lighting ordinance.

Vice-Chair Suesser clarified that they were not looking to be designated as a City with a dark sky. Planner Ward answered no, not at this time.

Vice-Chair Suesser closed the public hearing.

Commissioner Hall asked the Staff address the letter from the HPCA regarding keeping on seasonal lights to the Transit Center and China Bridge until 2:30 a.m. Planner Ward stated that the Staff was proposing that those string lights be allowed to remain on until 2:30 a.m. Currently, the cut-off time is midnight. She clarified that it would only apply to string lights outlining the buildings on Main and Swede.

Vice-Chair Suesser asked if any lights would go off at midnight in the Main Street vicinity. Planner Ward replied that the streetlights remain on all night. Building lights are building specific and determined by the property owner.

Commissioner Hall wanted to know what functionally was being changed for Main Street with these amendments. She understood that the only change would be requiring the storefront lights to go off. Planner Ward explained that outdoor lighting for the storefronts will not be time regulated. However, if this Code is retroactive, they will be required to have lights that are fully shielded and meet the 3000-degree Kelvin requirements. Specific to the string lights on the buildings, the time for those going off would be extended by 2-1/2 hours. The streetlights remain on all night.

Commissioner Kenworthy asked if the uplighting on buildings that are usually flood lights and sometimes colored will still be allowed, and would they stay on until 2:30 a.m. Planner Ward clarified that the only lights that will be allowed to stay on until 2:30 a.m. are the holiday street lights that outline the buildings, which currently stay on all year. The Staff was proposing that those lights be allowed to continue to stay on all year. Planner Ward emphasized that the 2:30 a.m. cut-off time is specific to the holiday string lights outlining the buildings. Lights that are up directed or non-compliant with the fully shielded requirements specific to the buildings will be required to be updated if the Code is retroactive for existing properties.

Commissioner Hall asked if businesses with an outdoor patio need to have the compliant fully-shield, low Kelvin and low lumen lighting. Planner Ward stated that if the Code is retroactive, they would need to update the lighting by the end of 2024 in order to be compliant. Commissioner Hall asked about the time requirement for those lights. Planner Ward replied that there is no time requirement for any lights other than season lights.

Commissioner Thimm asked what “if these become retroactive” means. He wanted to know if it was still under consideration for a determination. Planner Ward stated that because a lot of big projects are coming up, they would like to see this Code be in place and apply to all new development. The question is whether this Code should also apply to all existing outdoor lighting. Planner Ward remarked that the Staff was recommending that Park City follow Summit County’s example when they adopted their Code in March 2019. The property owners within unincorporated Summit County have until March 2024 to bring their outdoor lighting into compliance with the Summit County

Code. Planner Ward stated that the Staff was proposing that that existing properties within Park City limits, come into compliance by December 2024. Commissioner Thimm understood that the Staff was looking for direction before coming back for action. In his opinion, making the updates instant would be a hardship and he supported the December 2024 date.

Commissioner Hall asked Planner Ward to talk about the process to comply. Planner Ward stated that if this Code is adopted, all new development moving forward would be required to meet these standards. Over the next several years, the City's approach would be public outreach and public information. They have an opportunity to work with the University of Utah Dark Sky Consortium, which is a group of students who are minoring in dark skies. They would potentially focus on Park City for their Spring project in 2021 to evaluate City property and what needs to be done to bring all City buildings and facilities into compliance with the Code. The City would use that plan to bring City properties into compliance by December 2024. Additionally, they would continue to do the kind of community outreach that was done in developing this Code to help property owners understand what needs to be done to come into compliance.

Planner Ward stated that for new buildings that would fall under the Code immediately, the Staff was working on a form that would require the applicant to demonstrate the lighting fixtures and to show compliance. That would potentially include the building inspection that is done at night to verify that the lights are complaint. Planner Ward stated that the Staff was looking into how to enforce this immediately with new properties, and at the same time focusing on community outreach during the 2021-2024 timeline for existing properties.

Commissioner Hall thought it made sense to have it be part of a permit process through the Building Department with an inspection for new construction. She asked if a normal single-family residence that has until 2024 to upgrade would require a permit and inspection to ensure that the owner was upgrading to a fixture that was actually in compliance. Planner Ward replied that the Staff was not proposing an additional permit at that time. However, it would be complaint based after 2024 and the City would do everything possible over the next three years to make sure that property owners were aware of the requirements and to assist them in bringing the properties into compliance. Commissioner Hall understood that homeowners who do not go through the Building Department for a remodel will not have an inspection and will need to go to the website on their own volition and figure out what fixtures would comply. Planner Ward asked if Commissioner Hall was talking about remodel of the outdoor lights. Commissioner Hall clarified that prior to 2024 most homes will not go through the Building Department because they will not be remodeled. She wanted to know the process for the homes that need to retroactively change their light fixtures to comply. Planner Ward replied that there would be no required permit or inspection for existing properties. People would be informed through mailers, public outreach, and social media. In addition to help from the University of Utah students, a number of community members are interested in forming a community group to help property owners come into compliance with the updated lighting ordinance.

Commissioner Hall asked if the Staff had a sense of the number of homes that would be impacted for retroactive upgrades. Planner Ward stated that when the Planning Department conducted the survey, the majority of property owners thought their properties already complied. For the past several years, when the Planning Department reviews the building permits, the recommendation is for fully shielded lighting. The current Code goes a step beyond where some of these fixtures that have been approved in the past few years would still comply if they have the correct bulb in the fixture. The majority of people who were unsure whether their property already complied, felt they could bring their property into compliance by 2024 with minimal cost.

Commissioner Hall had sent an email to the Staff with pictures of several different light fixtures on her street that she had taken. She believed 100% of those fixtures would be non-compliant because they were not fully shielded, and there did not appear to be a way to retrofit those fixtures to become fully shielded. Commissioner Hall stated that 100% of the homes on her street were not compliant. She felt they were creating a problem rather than solving a problem by forcing people to retroactively change their light fixture. Unlike other areas in town, her street is already very dark, and she believed there were other neighborhoods that have dark streets.

Planner Ward stated that the Staff refers to this a good neighbor lighting, but it is also for impacts on wildlife. The fully shielded requirements or the requirements to lessen the output of lights that are not shielded will mostly impact flood lights or lighting without a purpose. Updating the Code will direct light where it is needed and mitigate impacts to neighbors and wildlife. Planner Ward had not yet received the email, but she was interested in seeing the photos from Commissioner Hall. She would look through the photos to see if they would be exempt under what the Staff had proposed in terms of reducing the lumen output and exempting lights from the fully shielded requirement.

Commissioner Hall clarified that she was generally in favor of the dark skies, but she thought this amendment was overreaching. She read through all the public comments and she empathizes with people who live in Old Town because they are so close together. However, there are many neighborhoods outside of Old Town where people do not live on top of their neighbors and ambient light is not an issue. Commissioner Ward noted that there are exemptions where lights that do not comply with the fully shielded requirement can be exempt if a bulb meets a certain lumen threshold. Lights that are next to front doors would also be exempt if there is a roof overhang. Planner Ward clarified that the Staff tried to carve out as many exceptions as possible to make sure existing lighting can be brought into compliance without requiring a total overhaul of the outdoor lighting. She offered to look into other opportunities for existing lights.

Commissioner Kenworthy was supportive of the dark sky goals. He thanked Officer Randall for his presentation this evening. Based on that presentation, he understood that there needs to be a balance. Commissioner Kenworthy stated that from what he has seen of the dark sky goals, he believed they were heading towards that balance. He thought Commissioner Hall had made a good point about the difference in Old Town neighborhoods versus other neighborhoods. Commissioner Kenworthy supported the 2024 compliance date. He liked the amendment of a 2:30 a.m. shut off for seasonal lighting. Commissioner Kenworthy stated for the record that the Covid closures have caused many buildings to go completely dark at dusk, and Main Street has lost some of the magic that he does not want to lose permanently. He remarked that the Historic Preservation Board has done a great job over the years, and the mining history is reflective in the architecture. The lighting on Main Street contributes to that and they should be careful about walking through the Main Street changes. He was pleased to hear the only change was the seasonal lighting at 2:30 a.m. and he was comfortable with it.

Commissioner Thimm expressed appreciation to the Staff for all their hard work on this amendment. He thought they had put together a progressive way to look at lighting and he looked forward to it being implemented.

Vice-Chair Suesser asked if the seasonal string lights that stretch across Main Street would also stay on until 2:30 a.m. Planner Ward replied that the streetlights stay on until 2:30 a.m. but she was not sure about the string lights. However, with the Code being proposed, the string lights would remain on until 2:30 a.m. She would look into further clarifying the string lights stretching across Main Street.

Vice-Chair Suesser agreed with the direction the Staff was moving towards with this amendment.

MOTION: Commissioner Thimm moved to CONTINUE the discussion regarding the LMC Amendments for outdoor lighting to January 13, 2021. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

5.C. Amendments to Land Management Code Section 15-6-7, Master Planned Affordable Housing Developments – Review of Land Management Code Amendments to Reduce Off-Street Parking, Increase Building Height, and Allow Market-Rate and Affordable Units for Master Planned Affordable Housing Developments.

Planner Ward noted that Jason Glidden, the Housing Development Manager, and Erik Daenitz, the Senior Financial Data Analyst, were also participating this evening.

Planner Ward reported that the Affordable Master Plan Development (AMPD) Code has been in process for over three years. The purpose of this Code amendment is to help the City achieve the goal to have 800 affordable housing units by 2026. Planner Ward stated that the City was making progress in that 133 units were completed, and 404 units are in progress as a result of a MPD housing obligation or an annexation obligation. In addition, 263 units still need to be identified and funded. Planner Ward stated that in order for the City to achieve this goal, it is important to incentivize private developers to build affordable housing.

Planner Ward stated that since 1984, there has been an AMPD Code in the LMC where developers could receive a 20-unit density bonus if they constructed a residential project that was 100% affordable. He noted that in 36 years no AMPDs have been constructed by a private developer or by a private/public partnership. Planner Ward stated that in 2018 the City Council directed the Staff to look into the AMPD Code to try and understand the obstacles to incentivizing private development of affordable housing. Over the past few years, the Staff worked with a consultant, Cascadia Partners, and they produced two reports that identified some of the obstacles in the Code. Planner Ward stated that Cascadia made a recommendation to look into reducing setbacks and open space requirements. She noted that those LMC Amendments were put into place in January of this year. Planner Ward stated that Cascadia also recommended looking at increasing height for affordable developments and also decreasing parking. The Staff was working on drafting the Code based on the two previous work sessions with the Planning Commission regarding reduced parking and increased height.

Planner Ward stated that the last piece of this Code is the percentage of affordable and market rate units that might help incentivize some of these developments. Planner Ward reported that over the past few years things have occurred that caused the Staff to recommend additional changes to the AMPD Code that was proposed in 2018. These include separating the AMPD Code from the MPD review and approval. The reason is because the purposes behind both of the codes are different, and the regulations and exceptions are very different for these two separate projects. Planner Ward remarked that where the 2018 Code required that AMPDs also comply with MPD housing obligations, the

Staff was recommending that those be separated and that the housing obligations for AMPDs be self-contained in that chapter of the Code.

Planner Ward stated that the Staff was also recommending that the AMPD Code be specific to affordable housing and not attainable housing. In 2018 the Code allowed developers to have a density bonus based on the number of affordable units, and also the AMI that was served by those units. Planner Ward remarked that at that time, the definitions for affordable and attainable housing were different under the housing resolution. She noted that the City Council recently adopted a new Housing Resolution and Affordable Housing is now defined as housing affordable to people who are at 80% AMI or less. Planner Ward stated that the AMPD Code would be created specific to 80% AMI or less and would no longer give credit for attainable housing.

Planner Ward stated that also in 2018, the initial Staff report recognized that applying the density bonus based on the base zoning density gets complicated very quickly. The Staff was proposing that the density be based on an envelope. If these AMPDs meet the required setbacks, open space, and increased height, that would be the building envelope and the volume for the project, rather than looking at the base density, which could be volume-based density, floor area ratio, or units per acre. The Staff believes it will simplify the process and help establish an expectation of what would be approved under the Chapter of the Code.

Planner Ward remarked that the Staff was also proposing that nightly rentals be prohibited for any development under the AMPD Code for both affordable and market rate units to increase long-term rentals and work force housing in the community. She noted that the Code that has been in place since 1984 is specific to residential development. What was proposed in 2018 was also residential. However, if they open the door to allow some commercial development on the first floor, development that is less than 10,000 square feet might help incentivize some of these public/private partnerships.

Planner Ward stated that the Staff looked at requiring 40-50% affordable units to incentivize public/private partnerships. Based on the Staff evaluation, this Code would probably be workable at 50%. Planner Ward remarked that even with everything that has been evaluated and investigated so far such as reducing the open space, reduced setbacks, parking requirements, and increased height, there are still design construction and land costs that are prohibitive for these developments. The Planning Department has been working with the Budget Department to see what it would take to get this type of project built. The Budget Department created a hypothetical project that evaluates the parking reductions and the height increase to see if it goes far enough to incentivize these developments.

Erik Daenitz, with the Budget Department, stated that his department modeled a hypothetical affordable housing development. They tested a lot of the assumptions in the model with market participants to validate their assumptions and to see whether changes to the Code would create a material benefit in terms of incentivizing private developers to build affordable housing in the City.

Mr. Daenitz highlighted the key points of how they arrived at the costs. They modeled a 37-unit project without the additional floor, and he would later show what increasing height does to the proforma. Mr. Daenitz stated that they modeled costs, included fees, and included assumptions around the amount of equity being brought to the project by developers. They also modeled AMIs that makes the project affordable. He noted that it was modeled as a rental project. Mr. Daenitz stated that once the capital construction costs are finished, the project would run as a rental where the residents would pay monthly rents and an HOA fee. It is a key feature that is more attractive to private investors.

Mr. Daenitz reviewed a slide showing two key toggles. One was a density bonus which effectively added height to the project. The second was a parking reduction. He pointed out that without the density bonus and without the parking reduction, the model project pencils with a year one profit margin of 4%. In terms of balance sheet, it starts out as a negative equity position, meaning it carries higher liabilities than assets. He stated that the private market does not want to exercise the affordable planning Code because the costs outweigh the benefits under the current conditions. Mr. Daenitz remarked that some of that pressure could be alleviated through Code changes.

Mr. Daenitz hypothetically modified the project to show the effect if the Code is changed. If they add square footage for another floor, the year one profit margin increases to 18%. Although it is still a negative equity scenario, the cash flows get better. If they reduce the parking requirement the profit margin jumps slightly. Even though density has a bigger impact than parking, reduced parking still helps. Mr. Daenitz stated that they also included the idea of the City potentially coming in with a small subsidy. Using a hypothetical 10% of the project cost, the profile of this development becomes much more attractive to a partnership. Mr. Daenitz remarked that the private market gets a deal that is attractive to investors with an annualized return on equity of about 8% per year. The internal rate of return is approximately 4%. He called it an “investment grade bond” type of return. The private market makes money, and the City adds 38 affordable units to its stock of affordable units. The cost to the City is $2 million. Changing the Code gives the City exceptionally high leverage in terms of affordable units per dollars spent, and it creates an incentive structure for a developer to actually get involved.

Mr. Daenitz stated that the model was tested with a few local developers and they expressed that the Code changes are material and a place to start a conversation, which is different than in the past. Mr. Daenitz remarked that if the City is able to participate, it keeps the profile of the project such that the market can actually consider doing this. He pointed out that 56% of the whole project is under 80% AMI, and results in 38 affordable units out of a 53-units, which is a significant impact. Mr. Daenitz emphasized that the model was hypothetical and not a real project. The intent of the model was to show that the choices regarding the Code do have economic impact.

Commissioner Hall understood from Mr. Daenitz that some of the local developers found these Code changes to be enticing. Mr. Daenitz answered yes. He stated that before they even got into the model, the developers mentioned looking at the Code first in terms of what the City has control over and what elements of the Code can be more flexible. Regarding the money conversation, they were testing the financing conditions and wanted to get a good grasp on the current costs in the market to check their expectations of debt costs and project construction costs. They found those to be sound and from there it was a question of what the returns look like and would those get to a place that would entice an equity firm. Mr. Daenitz remarked that the reaction from the local developers was yes, there is a place for this in the market. People care about affordable housing, but they also need to make money. If the City can help put the developers on a sustainable platform to make money and still be responsible with the City funds, it would be a win/win situation.

Mr. Daenitz remarked that the City Council already has existing tools with regard to affordable housing development; however, this would be another tool they could deploy in the long term. If they reach the 250 additional unit goal, there is no reason why this could not continue because the terms are attractive for market participants.

Commissioner Hall stated that she supports affordable housing, and she would like an LMC Code that incentivizes people. Her biggest reservation is finding the tool to utilize the Code, so it is more than just lip service from a developer. Mr. Daenitz used the model to show that as he turns on the Code changes, the financial profile continues to improve. However, without the City stepping in and creating additional padding, the equity position stays negative in the early days of the project. He pointed out that these changes would help but they would not entirely solve the problem, but if they do not make the changes the hurdle is even higher.

Commissioner Kenworthy asked for the percentage of affordable units on the proforma versus the market units. Mr. Daenitz replied that they were getting 56% affordable units and 44% market rate. Commissioner Kenworthy understood that 40% affordable units results in a substantial gain for the developers.

Commissioner Kenworthy strongly supported City subsidies. He thought it would save the City a lot of money in the long term. He noted that for 36 years this has gone nowhere even thought many Planning Commissions before them have tried. Commissioner Kenworthy noted that Commissioner Hall stated in a previous meeting that the City hired Cascadia and they should listen to the experts. He completely agreed with her comment. Commissioner Kenworthy asked if Mr. Daenitz had used all of Cascadia's recommendations in the proforma. Mr. Daenitz was not prepared to answer that question because he was not familiar with the full set of Cascadia's recommendations. He clarified that his model was reflective of the height and parking considerations.

Commissioner Kenworthy asked Planner Ward if they were using the extended footprint for setbacks. Planner Ward replied that it takes into consideration what was already put into Code with the reduced setbacks and open space.

Commissioner Hall asked if anything was missing in the proforma that was in the proposed LMC changes. Planner Ward pointed out that this model was hypothetical, and the Cascadia report indicates site specific. The model gives an idea of what is possible on an average site and includes what Cascadia recommended.

Commissioner Kenworthy noted that they were only at 63% of their goal. This is a critical goal that the community wants, and they are running out of land. He thought the proforma shows that providing additional City subsidy is needed, along with the Cascadia recommendations. Commissioner Kenworthy stated that he was leaning towards the proposed amendments and the recommendations to move full speed ahead on affordable housing; otherwise, they will never meet the goal. He did not see it happening without the public/private aspect.

Commissioner Hall agreed with Commissioner Kenworthy. It is crucial to do something within the LMC to incentivize private developers. Commissioner Hall asked if the developers had suggestions on what might create an incentive aside from what Cascadia recommended.

Jason Glidden stated that in talking with the local developers as well as developers in Salt Lake, the way to incentivize is to continue to decrease parking or increase height to increase density beyond what was being proposed. He noted The City was not comfortable moving to that stage yet. This was a first step and if they find they need to do more they can. Mr. Glidden used an affordable housing project in Salt Lake as an example of a dense project with no subsidy from any government agency. Mr. Daenitz stated that anything that can be done to reduce costs and increase revenues matters. He noted that one idea of a financial lever that has not been utilized by the City with respect to affordable housing is to construct a public/private hybrid where the City funds the debt through municipal borrowing. The City would tap the municipal credit markets to lower the long-term debt in the project, and the private developer brings in the equity stake. He provided an example to show how it would lower the borrowing cost, but the developer would still service the debt. Mr. Daenitz pointed out that this would be a key material benefit.

Commissioner Kenworthy asked if Mr. Daenitz had compared this proforma with local developers to the regular MPD market rate envelope. Mr. Daenitz stated that they did not get into a full market rate project when they met with the developers. However, he was able to turn it into a market rate project to show the Planning Commission how it would work. Without a City subsidy, the profit margin was approximately 18% and the developer would net $150,000 in year one. Commissioner Kenworthy stated that if he is a developer, he would want to see his profit without doing affordable housing because that is the key comparison.

Mr. Glidden pointed out that the units they were working with are smaller units. When Mr. Daenitz puts 100% as market rate, it is because that was what was tested as far as the highest that they would be able to drive off these smaller units. If they were dealing with larger units, the increase would be closer to 150%.

Mr. Daenitz presented the comparison profile showing the current envelope with 100% market rate versus the affordable envelope. He noted that there is a significant difference in the profile financially. Under the affordable profile with City involvement, the net income would be 4x as much in year one, as opposed with the old envelope with no City subsidy features. Commissioner Kenworthy believed this proforma could win over the developers.

Commissioner Kenworthy remarked that the wealth gap is out of control. Without this public/private aspect they will not achieve the affordable housing goal. He fully supported City subsidies and the proposed Code amendments.

Commissioner Thimm concurred with Commissioner Kenworthy in terms of the encouragement of public/private partnership and working towards the greater good. He was in favor of the AMPD Code initiatives as outlined in the Staff presentation. Commissioner Thimm asked if there was a way to have some sort of a sliding scale of initiatives and incentives that would allow for a deeper target than 80% AMI. He remarked that 80% AMI in Park City is still a lot of money. Planner Ward replied that the original proposal in the 2018 was that the lower AMI served the greater the density bonus. Planner Ward stated that the City Housing plans to address some of the lower AMI housing needs. She believed those are met through a rental model the City was working on.

Mr. Glidden remarked that the recommendation was looked at in 2018. However, they have now decided to try to take away some of the confusion of adding additional density bonuses for going to a lower AMI level. Mr. Glidden stated that through the financial model, they found that as the AMI level drops down and the rent drops down, the revenues also drop down and the project begins to lose feasibility. He was willing to look into it further, but it would require going to a new level and adding a lot more toggles to the model. Mr. Glidden agreed that it would be great to target a lower AMI if possible. He believed it would require a larger subsidy from the City to make that happen.

Vice-Chair Suesser asked if the expectation of getting subsidies from the City was increasing affordable housing obligations for developers and using a fee-in-lieu that would fund those subsidies. Mr. Glidden stated that a subsidy from the City can come from a variety of different ways. In this proforma, the City granted equity of $2.3 million at the 10% level. He remarked that in looking at land cost alone at $5 million, providing the land could be one way for the City to provide a partnership. Mr. Glidden stated that the subsidy could also come from the housing fund. He remarked that the City and a private developer would go in on a project where the City would bring in 10% to that project in exchange for the developer to build additional affordable housing.

Vice-Chair Suesser thought a large component of meeting these affordable housing goals should be an increase in the affordable housing obligations. They should look to extract those obligations from a broader development going on in the City over what they currently expect. Mr. Glidden replied that they were successful in increasing the obligation in the last housing resolution. They increased residential from 15% to 20%. They also changed how they calculated the resident unit equivalents from a straight number of units being developed to the resident unit equivalents, which is based on square footage. In addition, they are beginning to look at the feasibility of single-family homes over a certain square footage to see if there is an ability to capture anything from those. If not, possibly looking at decreasing the trigger for an MPD that would automatically trigger an affordable housing requirement. Mr. Glidden clarified that they were looking at other ways of increasing the inclusionary housing, but it was still a work in progress.

Commissioner Hall commented on the City debt assistance as a potential financial tool. She asked if it was a policy that the City Council would need to adopt or whether it could be incorporated into the LMC. Mr. Daenitz believed the City Council would need to adopt it as a policy because they would be pledging City or Housing Authority revenues against that debt.

Commissioner Kenworthy asked for an update on the fee-in-lieu. Mr. Glidden stated that currently the fee-in-lieu was approximately $386,000 per unit. He noted that fee-in-lieu is listed as one of the options for a developer that has a housing requirement. Mr. Glidden reminded the Planning Commission that the different options for satisfying a housing requirement are listed in priority level and fee-in-lieu is at the lowest level. It is not the preferred option because they would rather have the developer build the units. Mr. Glidden stated that he and Mr. Daenitz have been looking at re-evaluating that to make sure they are actually capturing the true cost of a unit to make sure the City was charging enough.

Commissioner Kenworthy echoed Vice-Chair Suesser's comment for other options to help reach the 800 number in five years.

Commissioner Hall asked for the real cost of an affordable unit. Mr. Glidden stated that the calculation is based on the cost off of building permits being pulled to find an average square footage cost. That number is multiplied by the 900 square feet, which is an affordable unit equivalent, to calculate the total cost. Mr. Glidden noted that in that calculation they only deal with construction costs and not land costs. In addition, fees are calculated off of what the contractor provides as the cost of construction. He believed the developer would estimate those costs lower to achieve a lower fee for a building permit. Mr. Glidden assumed they were low on the square footage cost, which is why they were looking at it more closely. Commissioner Hall asked if there was a way to incorporate the underlying land. Mr. Glidden stated that Mr. Daenitz would be helping him figure that out.

Vice-Chair Suesser asked City Attorney Harrington to speak to the legal issues involved in potentially extracting affordable housing obligations from residential development.

City Attorney Harrington explained that there were a number of things were going on. First is that the State of Utah is going through an assessment at the industry and State Capitol level on challenges to affordable housing. He warned the Commissioners that the narrative was counter-intuitive to some of the principles in Park City. It goes as far as saying that inclusionary zoning increases the cost of housing disproportionately. He provided an example and noted that the State was using economic models to demonstrate that point. Mr. Harrington anticipated that there could be legislative challenges in the next few sessions that could roll back their authority on both regulating inclusionary zoning and mandating additional permitted uses of the accessory uses within nightly rentals. Mr. Harrington remarked that these were only a backdrop to some of the challenges they face statewide. He noted that they are limited in Utah in terms of what they can charge a fee on. The City has broad regulatory powers, but when it comes to finance, they need to have express enabling legislation. Mr. Harrington stated that Park City has threaded the needle on fee-in-lieu by making it part of a broader spectrum of options to solve a regulatory component. However, if it is a straight exaction, they could be subject to a potential claim of it being an illegal tax or an illegal impact fee, or a number of other challenges that has a permitted use. Mr. Harrington recommended caution because it is difficult to defend.

City Attorney Harrington stated that on the pragmatic end and making sure there is a direct correlation in terms of the City's assessment and the demonstrated cause and effect relationship regarding the single-family upgrades or a single-family home actually creating new employees as opposed to an incremental increase in services. Mr. Harrington encouraged the Planning Commission to prioritize. That is why they focus on MPDs and annexations in larger projects because they get the least risk and more bang for the buck versus an incremental pool of money. Mr. Harrington recognized the perceived inequity that it creates, and that all new growth should pay some portion, but in that case, they should lobby the State for additional impact fee authority specific to affordable housing.

Commissioner Hall asked if Mr. Harrington had said they would have an issue if they incorporated the cost of the underlying land into the fee-in-lieu. Mr. Harrington replied that he only replied to the single-family question that Vice-Chair Suesser had asked. In terms land cost, Mr. Harrington thought that was more pragmatic. He noted that when the City first started fee-in-lieu it was done to minimize the risk of challenge. It was not based on the production of a unit, but rather the cost of administration of the City's program per unit. In the original resolution, the theory was that the City needed to get the fee-in-lieu to create the unit, flip it, and get back the equity. They were only going to charge the difference in the subsidy. Mr. Harrington pointed out that incrementally it has grown, and they were now trying to approximate the actual cost of building a unit. He remarked that the closer they get to that, the closer they get to these other challenges. He believed that if they continue along the path of taking a multi-prong approach and increasing private incentives is a good approach.

Commissioner Kenworthy believed the costs would go down because the private sector can do a much better job. If a developer has multiple projects going on in the region, he would be able to drive those costs lower than any City could. Mr. Glidden preferred that the City not develop at all. His preference was for partnerships because it is more financially beneficial for the City and requires less resources and Staff time. Commissioner Kenworthy believed that the proformas Mr. Daenitz had prepared should get developers interested in partnering with the City rather than just doing regular market rate buildouts.

Commissioner Hall asked if consideration was given to rentals instead of purchasing with deed restrictions. Mr. Daenitz stated that the model shown this evening was actually a rental model. He remarked that the enterprise value of the "vehicle" included discounted forward cash flows. It was modeled as a rental model and it has its place for both financial and positive social reasons. It allows lower entry points into the community, it potentially creates more diversity of income within the area of the project itself, and it has the capacity to increase the velocity of money in the community. Mr. Daenitz stated that he and Mr. Glidden have been working on the rental proposal, and there would be more public discussion to that end in the coming weeks. Commissioner Hall was pleased that rentals are being considered because it was a missing component in the current affordable housing plan.

Commissioner Hall stated that going forward she would like to hear from the developers who would actually utilize this plan and she suggested getting their input in writing or have them speak to the Planning Commission. She would also like to know if the developers have creative ideas of their own.

Planner Ward asked if the Commissioners had concerns about crafting a Code that includes commercial development. Commissioner Thimm thought it would be a mistake not to include commercial development. The Commissioners concurred.

Mr. Glidden stated that the commercial piece came up in conversations with the developers. The developers felt that adding the commercial aspect not only makes the project more financially stable, but it also adds vibrancy to the project.

Commissioner Thimm recommended that they allow horizontal mixed-use within a parcel rather than just limiting it to vertical mixed-use.

Planner Ward stated that if there were no concerns about separating the AMPD and MPD Code, the Staff could come back to the Planning Commission with a draft code in early 2021.

Vice-Chair Suesser understood that the AMPDs would likely involve mixed affordable housing and market rate. Planner Ward replied that she was correct. Vice-Chair Suesser wanted to know what percentage of affordable in that type of development would trigger the AMPD. Planner Ward stated that based on the analysis by the Budget Department, at least 50% of the units would be affordable to 80% AMI and less. Vice-Chair Suesser asked if the entire development would get the density bonus, parking reductions, and the other incentives that were discussed. Planner Ward answered yes; however, the parking reductions that the Planning Commission considered are specific to the affordable units. There would not be parking reductions for the market rate units.

Vice-Chair Suesser restated her comment from the last meeting that she did not support the recommendations for the parking reduction, except for the credit for off-site parking.
Commissioner Kenworthy referred to page 3 of the Staff report which stated that reduced parking for affordable units require parking mitigations based on the transit access, available carshares, motorcycle, scooter parking, and bicycle parking. He asked if Vice-Chair Suesser was saying that she would look at each one individually based upon that recommendation; or she would still not support the reduced parking even if there was a new transit center.

Vice-Chair Suesser clarified that she was opposed to not having any spaces for affordable housing units or half a space for a market rate unit that is less than 1,000 square feet. She had a problem with those specific recommendations because it is not practical for the community to have that great of a parking reduction. Commissioner Kenworthy asked if she would feel the same way if the building was on top of a new transit center. Vice-Chair Suesser replied that she would want the ability look at that specific circumstance rather than have it in the Code.

Planner Ward clarified that as the Staff looks into the Code for over the next several weeks, they would also be looking into details of what those mitigations could look like. The Staff will come back with more details in January.

Commissioner Thimm supported the adjusted parking recommendations as outlined in the Staff report. Commissioners Kenworthy and Hall concurred.

Planner Ward stated that she did not have a date certain for when this would come back to the Planning Commission. There was no need to continue this item because the Staff would do the required legal notice when the item is scheduled on an agenda. She hoped they would be ready to come back in January.

Commissioner Hall asked if public comment is taken during a work session. Planner Ward replied that it was not noticed for a public hearing; however, the Planning Department created an Engage Park City page to provide information on what was being proposed, and to also get public input on the Code amendments.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

6.A. 1271 Lowell Avenue – Condominium Plat Amendment – The Applicant Proposes Amending Building D of the King's Crown Condominiums to Reduce the Units from 12 to 11, Reduce the Parking from 22 to 21 Spaces, Reduce the Limited Common Area by 386 Square Feet, and Increase the Private Area Square Footage by 712 Square Feet.
(Application PL-20-04661)

This application was withdrawn.

6.B. 1241, 1249, 1257 Rothwell Road – Plat Amendment – The Applicant Proposes Combining Single-Family Dwelling Lots 27, 28, and 29 of the King's Crown Re-Subdivision into Two Lots. (Application PL-20-04660)

Planner Ward reported that this item was part of the King's Crown Master Plan Development. The request is for a lot combination. Planner Ward stated that the King's Crown Master Planned Development includes 27 single-family lots, seven town homes, the Building A condominiums on Lot 1 which would be the affordable housing units, Lot 2, which has three condominium buildings, Buildings B, C and D, and Lot 32, which is open space. Planner Ward remarked that King's Crown is near the base area of the Resort along Lowell Avenue and Rothwell Road, which is a private road that is access for many of the single-family dwellings.

Planner Ward stated that the applicant was proposing to combine three lots located next to the ski amenity building into two single-family lots. This proposal complies with the King's Crown Development Agreement. The Development Agreement and the MPD Approval allow up to 27 market rate single family lots. If this item is approved, the density on the removed lot will be eliminated and it cannot be reallocated within the MPD. Planner Ward remarked that none of the affordable housing obligations will be reduced as a result of this amendment.

Planner Ward stated that the proposal complies with the MPD and CUP. In the MPD approval, the square footage for the single-family homes was estimated to be approximately 71,000 square feet. The proposed lot combination will reduce the buildable area because when the lot size increases in the recreation commercial zone, the maximum footprint decreases. The existing building footprint for the three lots is around 3,000 square feet. With this amendment, the footprint would be reduced to 2800 square feet.

Planner Ward reported that the proposal also complies with the Recreation Commercial Zone requirements. It meets the minimum lot area, lot width, and setback requirements. The average width for these single family lots is 31'; at the widest up to 56' and 25' at the narrowest. The lot width for Lot 27 would be 44' and Lot 28 would be 43'.

Planner Ward stated that the recommended conditions of approval comply with the King's Crown re-subdivision plat, and they include requirements for dry utility infrastructure, sprinklers, pressure surge tanks for the buildings on the lots, and require restrictions. Only one single family-dwelling is allowed, and the lot and the unit that is eliminated with this combination cannot be reallocated.

Planner Ward commented on the maximum house size. She explained that currently per the LMC, the house size in the Recreation Zone is established by the building footprint and the height.

The Staff found good cause for this lot combination because the single-family dwelling density accessed by a private road would be reduced. There is no right-of-way vacation, and the easements must be shown on the plat. Planner Ward noted that the Snyderville Basin Water Reclamation District had submitted requirements for easements that will be shown on the final plat if this request is approved.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation for City Council consideration on January 7, 2021.

Planner Ward clarified the maximum house size. The way the draft ordinance was currently written, the house size is based on what is outlined in the LMC with the building footprint and the height. She stated that a suggestion was made for a maximum house size of 3700 square feet be added as an additional condition of approval. Planner Ward noted that the applicant's statement was included in the Staff report as Exhibit B. In that statement there is an approximate house size of 3700 square feet. She explained that where the house size gets complicated under the LMC is how things are defined. If the Planning Commission wanted to add a condition of approval for maximum house size, the Staff recommended that it be defined as the gross residential floor area which is measured from the finished surface of the interior of the exterior boundary walls. It excludes the garage, and the calculation is based on final grade.

Rory Murphy, representing the applicant, was surprised by the maximum house size. He only heard about it a couple of hours prior to the meeting. Mr. Murphy stated that he and Chimso Onwuegbu, the project architect, have had some discussion and he

wanted Mr. Onwuegbu to have a chance to express his thoughts to the Planning Commission.
Mr. Onwuegbu stated that his biggest question was the requirement for a square foot maximum on the house. It does not exist this this MPD and he was unsure of anywhere else that it exists in Old Town or in the HR-1 zones. He thought the LMC did a good job of limiting house size based on building pad, building footprint, and the allowable height. Mr. Onwuegbu questioned the purpose of the recommendation, and he thought it was an unfair attachment to these lots compared to anything else in the area.

Mr. Murphy stated that he had not seen that requirement before this evening. They tried to do an approximation of it, but when a limit is set for the house size it can cause a lot of issues. Mr. Murphy pointed out that architects like to have some flexibility to work on a project. He was curious where the requirement came from and why it was being imposed on this project. Mr. Murphy preferred to follow the Land Management Code for the zone to limit the house size.

Commissioner Kenworthy asked what the maximum building size would be under the current LMC. Mr. Onwuegbu did not believe the size would be substantially bigger using the definitions in the LMC. He felt the restriction was more about interpretation and how it might be viewed by someone purchasing or developing the land. Mr. Onwuegbu estimated a house size around 4200 square feet under the LMC.

Vice-Chair Suesser thought it was a calculation of the building footprint of 14,047 square feet and a height restriction. She thought they could achieve the maximum house size based on that calculation. Mr. Onwuegbu stated that they were bound by those two criteria under the LMC, but there is not a definitive number attached to it. The topography and the width and depth of the lot, as well as other factors, changes what can be accomplished on each property. He believed the LMC already provides limits and he was unsure why the Staff was recommending a definitive house size for these two lots outside of the LMC. Vice-Chair Suesser understood that part of the concern is that it is on a hillside. The building footprint and the height are limiting factors, but the site has been significantly excavated. She thought the concern was height and asked if it was better to restrict the number of stories on these single-family homes.

Mr. Onwuegbu stated that a third part of the Code already does that. There is a 35' limitation from the bottom floor of the garage to the top of the wall. He emphasized that the restraints are already in the LMC to limit size and height of the houses.

Commissioner Thimm wanted to why the square footage limit was placed. He asked if it was because the larger lots could achieve potential larger square footage. In his opinion, this proposal reduces the intensity of use by removing one unit. Planner Ward stated that the Staff report and the draft ordinance were written to follow the LMC.

Vice-Chair Suesser remarked that the letter from Rory Murphy approached it differently and addressed what could have been built on the three lots versus what is anticipated to be built on the two lots. He included a calculation of 3700 square foot homes. Vice-Chair Suesser understood that because of the approach, there was some thinking that there should be a condition of approval stating that the house size should not go beyond was what anticipated by the developer.

Mr. Murphy clarified that the 3700 square feet calculated in his letter was only an approximation. He thought the limit added another layer of restriction making it more difficult. Mr. Onwuegbu explained that when the numbers were generated there were net areas without parking, without garages, etc. He had generated the numbers for real estate purposes to show what could be marketed as net livable space in these units. Mr. Onwuegbu remarked that three units versus two would be the same calculation and the same design criteria of the LMC used to generate the three homes versus two homes. He thought it was better to follow the LMC without additional restrictions because either way the density was being reduced by having two homes instead of three.

Commissioner Kenworthy was concerned with the word “conformity”. He did not believe 3800 sf. to 4200 sf. would break any conformity. He asked for the sizes of the other homes in the project ranging from minimum to maximum size. Chimso stated that the homes that have been done so far are in the 3800 sf to 4300 square foot range, with one outlier at 5000 square feet on one of the larger lots. He recalled one home being closer to 3400 square feet.

Vice-Chair Suesser asked if the three homes that were anticipated on these three lots were significantly smaller than what has been built. Mr. Onwuegbu replied that the homes would have been similar in size to what has already been built. He noted that the areas included in Mr. Murphy’s letter were net areas that did not include stairs, the elevator, the garage or that type of space. The square footage range he just mentioned is the total square footage of the homes.

Commissioner Thimm believed the maximum area outlined by Planner Ward excluded the garage area. Planner Ward stated that the garage area would need to be within the building footprint; however, the garage does not count towards residential square footage. The density will be based on the building footprint and the height, and everything within that area above final grade. Mr. Onwuegbu understood the floor area and how it is determined in the LMC. On the bigger lots he estimated the homes would be approximately 4200 square feet if they max out the square footage. He pointed out that no one has studied the topography to see what could actually be built.

Mr. Onwuegbu reiterated that the biggest question is whether there is a reason for including additional criteria that does not exist for the other 25 lots in the same subdivision. Planner Ward remarked that the size in the draft ordinance in the Staff report is the size allowed by Code. Based on Exhibit B which outlines estimates, the residential floor area will be regulated under the Code. Planner Ward suggested that the Planning Commission could add a condition of approval specifying 3700-3900 square feet gross residential floor area. She pointed out that the condition of approval would be stating what is already stated in the Code. Mr. Onwuegbu remarked that the floor area residential is in the Code, but not the size limit. He did not understand the rationale for limiting the residential floor area for these two lots.

Vice-Chair Suesser suggested that the Planning Commission continue with their review of the application and the public hearing and then come back to this issue.

Commissioner Hall wanted further clarification from Planner Ward as to why the Staff was recommending a limitation beyond the LMC. She asked Planner Ward to provide that clarification after the public hearing.

Vice-Chair Suesser opened the public hearing.

Patricia Kravtin raised her hand on Zoom and was unmuted to make comment.

Patricia Kravtin stated that she and her husband, Jonathan Horwitz, reside at 1240 Lowell Avenue, which is the first single-family home on Lowell south of Manor Way. Mr. Kravtin remarked that she has commented many times on the King's Crown Development, particularly on the matter of Building D, the largest stacked condominium structure to be built directly adjacent to their home. Due to the negative impact from the King Crown's MPD to her and her neighborhood, she and her husband submitted numerous written and oral comments from the first inception of the project. Most recently, they submitted a substantial package of materials at the September 23rd meeting just prior to the applicant's resubmission of the Building D plat. Ms. Kravtin noted that she had submitted written comments for inclusion into the Staff report for this evening, but she understood their comments were excluded once the applicant withdrew the Building D amendment and requested plat approval last Friday afternoon. Ms. Kravtin stated that at her request Planner Ward forwarded her comments to the Planning Commission on their public emails and she hoped the Commissioners had the opportunity to review those comments. Ms. Kravtin stated that notwithstanding the applicant's decision to pull the Building D item off of the agenda, the matter of these lots pertaining to the King's Crown MPD was still before the Planning Commission. She wanted it clear that Building D is an integral component of the MPD. Regarding the importance of their unmet mitigation from the King's Crown MPD, this only came to light in December 2019 when the applicant acknowledged having made an error in the Building D plat regarding mitigation relating to the southern most boundary of building D. Ms. Kravtin and her husband strongly believe that all matters involving the King's Crown MPD, including these lots, need to be considered in the context of this unmet mitigation for the Lowell Avenue residential neighborhood. She stated that this mitigation was agreed to by the applicant and clearly memorialized on the public record of the November 29, 2017 Planning Commission meeting, and in numerous subsequent meetings, as well as in multiple correspondence between her and the applicant. Ms. Kravtin stated that the matter of the Building D mitigation is even more concerning now than it was in September because since that time the applicant has been allowed by the City to commence preliminary grading work for that building.

Ms. Kravtin requested that the Planning Commission consider a couple of proposed revisions to the MPD draft ordinance before them this evening to give clarity to the status of the Building D plat. She noted that those revisions were also provided in the material that Planner Ward had forwarded to the Commissioners. Ms. Kravtin read the proposed revisions into the record. First, they would propose adding as a Finding of Fact, "All City approvals pertaining to condominium Building D on Lot 2 plat have previously been expressly rescinded and vacated by the applicant". Second, they proposed adding as a Conclusion of Law, "Approval of this resolution has no bearing on the potential approval of any new plat for condominium Building D. Any approvals of a plat for condominium D on Lot 2 are subject to reapplication by the applicant and consideration and review by the City.

Ms. Kravtin thanked the Planning Commission for their consideration and public service.

Vice-Chair Suesser informed Ms. Kravtin that the Planning Commission had received and reviewed her packet of materials from Planner Ward.

Elena Stein raised her hand on Zoom and was unmuted to make comment.

Elena Stein stated that she lives right next door to the project and the density is a big issue. The sizes of the homes and the heights will be seen from anywhere in Park City. Ms. Stein was concerned about having a giant home if the lots are combined without a size restriction because it does not fit within the project. In addition, the shear massiveness of the project has been a complete inconvenience. Ms. Stein wanted to see how fast this could be constructed so they can begin living on their street again.

Not being able to have daily use of their street is a big concern. Ms. Stein stated that the potential for a giant house was a red flag. Anything that can be done to reduce the density is a benefit, but for a smaller home not one giant house.

John Horwitz raised his hand on Zoom and was unmuted to make comment.

John Horwitz, a resident at 1240 Lowell Avenue, supported the Planning Department's proposal to limit the square footage of the buildings on the two lots combined from Lots 27, 28, and 29. Mr. Horwitz noted that the King's Crown website shows the approximate buildable square footage for these lots, which lists 2600 square feet for each lot. Multiplying that by 3 and dividing it by 2, results in 3700 square feet for each house, which is on target with what the Planning Department was proposing. Mr. Horwitz pointed out that Lots 3, 4 and 5 across from his home also show approximate buildable square footages, and the approximate buildable square footage is listed at 2100 square feet. He remarked that when those homes were built and marketed, they showed square footage of about 3,000 square feet, and those are not small homes. Mr. Horwitz thought there was a discrepancy between what was in the marketing materials and what was ultimately being built. He thought the proposal to keep the homes in the 3500-3700 square foot range would be extremely positive and much more compatible with the neighborhood that already exists on Lowell Avenue. Mr. Horwitz thanked the Planning Commission for their hard work and for the opportunity to make his comments.

Vice-Chair Suesser clarified that the application for 1271 Lowell Avenue that was withdrawn from the agenda this evening is also part of the King's Crown project. The applicant anticipated bringing it back to the Planning Commission at the beginning of 2021.

Vice-Chair Suesser closed the public hearing.

Commissioner Hall asked Planner Ward to address the public comments regarding other non-compliant issues. Vice-Chair Suesser stated that those comments related to Building D and Lot 2, which was withdrawn for discussion and action this evening. She recommended waiting to address those comments when the application comes back to the Planning Commission.

Commissioner Kenworthy commented on conformity and the public comments by Mr. Horwitz. He asked for the average size of the net living square footage in the development. Planner Ward replied that it depends on the size of the lot. She pointed out that no additional restraints were placed on these single-family lots at the time of the MPD approval. It depends on the lot and based on how the draft ordinance and the

Staff Report were written, it would be aligned with the other 25 single-family dwelling lots within the subdivision. Commissioner Kenworthy asked if Planner Ward felt that the cap of 3800 square feet keeps it conforming with the other 25 lots in the buildout. Planner Ward thought the draft ordinance and the LMC regulations would result in a development that conforms with the Code. She believed that if they add a condition of approval specifying 3900 square feet of gross residential floor area it would not change what would be approved under the LMC. Planner Ward thought it was covered in the draft ordinance as written.

Mr. Murphy was willing to accept that compromise if necessary.

Commissioner Thimm noted that three different numbers were stated in the discussion: 3700 sf., 3800 sf. and 3900 sf. Vice-Chair Suesser thought 3700 sf. was the suggested cap. Mr. Murphy replied that he had estimated 3700 sf. in his letter based on a conversation he had with Mr. Onwuegbu. If the Planning Commission intends to put impose a hard cap, he would request an extra couple hundred square feet and put the cap at 3900 sf. for gross residential floor area.

Commissioner Thimm stated that when an application proposes a reduction in lots or density and a lower intensity of use, he has concerns with adding a restriction without reason or cause. Commissioner Thimm noted that the Planning Commission has limited square footage in the past as part of conditions of approval, and in this case, he thought the reason or cause made sense. The intent is to look to the surrounding neighborhood and come up with a reasonable alternative and he believed there was cause.

Commissioner Thimm supported the 3900 square foot threshold. Vice-Chair Suesser also support the 3900 square foot threshold.

Commissioner Hall thought the LMC would take care of the size limit and she did not see a need to add a cap. She favored the general notion of the reduction in density. Commissioner Hall clarified that her position is to default to the LMC and that there is good cause because of the overall reduction in density.

Vice-Chair Suesser referred back to the building footprint and the height restriction. She was confused as to why there was not a hard number of the maximum square footage. If the intent is to put a cap on the size of this home, and she did not understand why that would not be achieved by the building footprint and the height restriction.

Commissioner Thimm remarked that it comes from building volume. The way the building volume and the building height is measured depends on the lay of the land. Until a complete analysis is done, there is no way to know the maximum square footage because the height is measured a variable grade because of the hillside. Vice-Chair Suesser understood that they would not have this issue if the lot was flat. Commissioner Thimm replied that a flat lot would be easier to calculate, but it would still be calculated in the same way.

Commissioner Kenworthy was comfortable with a 3900 square foot cap; however, he was not in favor of extending beyond what the LMC would define or allow. Mr. Murphy stated that the applicant would not go beyond the LMC. If the LMC calculates 3700 or 3800 square feet, they would adhere to that size. Commissioner Thimm thought that made sense.

Commissioners Hall and Suesser agreed with Commissioner Kenworthy.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council to combine single family lots 27, 28, and 29 of the King's Crown Subdivision into two lots in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval found the draft ordinance, and including the maximum area of 3900 sf., based on the gross area calculation, and also limited by the limitation of the LMC for the underlying zone, for City Council consideration on January 7, 2021. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

<u>Findings of Fact – King's Crown – Plat Amendment</u>

1. On January 10, 2018, the Planning Commission approved the King's Crown Master Planned Development and Conditional Use Permit.
2. On February 1, 2018, the City Council approved Ordinance No. 2018-05, the King's Crown Re-Subdivision Plat (Summit County Recorder Entry No. 1091847).
3. On June 13, 2018, the Planning Commission ratified the King's Crown Development Agreement (Summit County Recorder Entry No. 1093392).
4. On May 22, 2019, the Planning Commission modified the King's Crown Master Planned Development and Conditional Use Permit.
5. On October 10, 2019, the City Council approved Ordinance No. 2019-51, amending Lots 30 and 32 of the King's Crown Re-Subdivision to accommodate Setback requirements for the Ski Amenity Building (Summit County Recorder Entry No. 1141429).
6. The King's Crown Master Planned Development is a 32-Lot subdivision in the

Recreation Commercial Zoning District that includes 27 Single-Family Lots, seven townhomes on Lot 30, and four Condominium Buildings on Lots 1 and 2. Over 11 acres are preserved as Open Space on Lot 32.

7. Lots 27, 28, and 29 are for Single-Family Dwelling development and are accessed by Rothwell Road, a private road.
8. The King's Crown Development Agreement allows up to 27 market rate SingleFamily Lots. The Applicant proposes reducing the Single-Family Lots from 27 to 26.
9. The Developer was required to provide 9.75 Affordable Unit Equivalents (AUEs) for the King's Crown MPD pursuant to Housing Resolution 03-2017. However, the Developer exceeded this requirement and provided 12.91 AUEs. The Lot combination reducing 27 Single-Family Lots to 26 Single-Family Lots does not impact the Developer's AUE obligations. No amendment to the King's Crown Housing Mitigation Plan is proposed and no AUE obligations will be reduced through this approval.
10. The Recreation Commercial Zoning District requires a minimum Lot Area of 1,875 square feet. Lot 27 is 3,529.95 square feet. Lot 28 is 3,525.85 square feet.
11. The Recreation Commercial Zoning District requires a minimum Lot width of 25 feet, measured 15 feet from the Front Lot Line. The Lot 27 width is 44.55 feet. The Lot 28 width is 43 feet.
12. The Recreation Commercial Zoning District Building Footprint for Single-Family Dwellings is calculated by this formula: Maximum Footprint = (Lot Area/2) x 0.9LOT AREA/1875
13. The existing Building Footprint is 1,037 square feet for Lot 27, 1,027 square feet for Lot 28, and 1,027 square feet for Lot 29. The amended maximum Building Footprint is 1,447 square feet for Lot 27, and 1,446 square feet for Lot 28. The plat amendment reduces the Single-Family Footprints by 190 square feet.
14. The Recreation Commercial Zoning District Side Setbacks for Lot widths up to 50 feet are five feet. Both Lot 27 and Lot 28 meet this Side Setback requirement.
15. The Recreation Commercial Zoning District Front and Rear Setbacks must be at least 12 feet and together must total at least 25 feet. The Front Setbacks for both Lots 27 and 28 are 12 feet; the Rear Setbacks for both Lots 27 and 28 are 13 feet.
16. The Recreation Commercial Zoning District Building Height cannot exceed 27 feet and Final Grade must be within four vertical feet of Existing Grade around the periphery of the Structure.
17. Single-Family Dwellings in the Recreation Commercial Zoning District within two blocks of the Historic Residential-1 Zoning District must comply with the Design Guidelines for Historic Districts and Sites.

<u>Conclusions of Law – King's Crown – Plat Amendment</u>

1. There is Good Cause for this plat amendment because the plat amendment reduces the overall King's Crown Master Planned Development density and Single-Family Dwelling density accessed by a private road.
2. The plat amendment is consistent with the Land Management Code.
3. Neither the public nor any person will be materially injured by this plat amendment.
4. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

<u>Conditions of Approval – King's Crown – Plat Amendment</u>

1. The Applicant is responsible for compliance with all conditions of approval.
2. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with state law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
3. The applicant shall record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
4. The final recorded plat shall include the following notes:
    a. The maximum Building Footprint for Lot 27 is 1,447 square feet. The maximum Building Footprint for Lot 28 is 1,446 square feet.
    b. The Site plans and Building designs shall resolve snow release issues to the satisfaction of the Chief Building Official.
    c. The Single-Family Dwellings on Lot 27 and Lot 28 shall comply with the Design Guidelines for Historic Districts and Sites.
    d. Dry utility infrastructure must be located on the Lot and shown on the building plans prior to building permit issuance to ensure that utility companies verify that the area provided for their facilities are viable and that exposed meters and boxes can be screened with landscaping.
    e. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of building permit submittal.
    f. Development on each Lot is limited to one (1) Single-Family Dwelling and the removed Lot and Density unit is eliminated and may not be reallocated.
    g. Due to the proximity of water services to the water transmission line and the resulting potential for associated water pressure fluctuations, individual pressure surge tanks may be required for buildings on each Lot.

h. The gross floor area for each Single-Family Dwelling shall be 3,900 square feet.

5. The Grant of Easement and Access Easement for Construction and Maintenance of Wastewater Collection and Transportation Pipelines and Appurtenances (Summit County Recorder Entry No. 1088815) shall be shown on the plat.

6. The extra lateral stub needs to be abandoned. This must be accomplished by exposing the lateral connection at the main line (in the road) and disconnecting the lateral, installing a cap or push-in plug at the HDPE connection tee, and installing a cap in the upstream abandoned line. This work will not be required before Snyderville Basin Water Reclamation District (SBWRD) signs the plat, but must be completed before SBWRD grants the project Final Project Approval.

The Planning Commission Meeting adjourned at 8:15 p.m.

Approved by Planning Commission: ____