

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JANUARY 13, 2021

COMMISSIONERS IN ATTENDANCE:

Chair John Phillips, Sara Hall, John Kenworthy, Laura Suesser, Doug Thimm, Laura Suesser

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

The Planning Commission meeting was conducted virtually via Zoom.

NOTICE OF ELECTRONIC MEETING & HOW TO COMMENT VIRTUALLY:

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

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

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

Exhibit A: Determination of Substantial Health and Safety Risk

On January 13, 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 February 13, 2021.

Dated January 13, 2021.

ROLL CALL

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

APPROVAL OF MINUTES

Chair Phillips noted an error in the agenda. The Planning Commission would be approving the Minutes of December 9, 2020 and December 16, 2020 this evening; not the November Minutes as indicated on the agenda.

December 9, 2020

Commissioner Thimm referred to the Minutes of December 9th, page 27 of the Staff report, third paragraph from the bottom and changed horizontal mixed up to correctly read **horizontal mixed use**.

MOTION: Commissioner Thimm moved to APPROVE the Minutes of December 9, 2020 as amended. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

December 16, 2020

MOTION: Commissioner Suesser moved to APPROVE the Minutes of December 16, 2020 as written. Commissioner Van Dine 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

There were no Staff communications.

Commissioner Kenworthy asked if Snow Engineering would be part of the presentation for the Base Area project on January 20th. City Deputy Manager Everitt unsure. He had not seen Snow Engineering referenced in his initial reading of the Staff report; however, AECOM was referenced. Commissioner Kenworthy noted that several months ago he had requested that Snow Engineering participate in the next transportation meeting. He reiterated his request for Snow Engineering to be in attendance on January 20th.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

5.A. 1105 Iron Horse Drive – A Conditional Use Permit Application to Convert a Retail and Service Commercial Minor Use to a Restaurant Use in the Light Industrial Zoning District, Expanding an Existing Coffee Shop from 500 Square Feet to 2,000 Square Feet. (Application PL-20-04729)

Planner Rebecca Ward reviewed the application for a conditional use permit for 1105 Iron Horse Drive, which is Ritual Chocolate. This lot is part of the Ironhorse Park Commercial Subdivision. It is located on Parcel E within the subdivision along Ironhorse Drive and Bonanza Drive.

Planner Ward reported that currently Ritual Chocolate operates a 500 square foot coffee shop and a 1500 square foot chocolate factory in the Light Industrial Zone, which is a minor commercial retail and service use. The applicant was proposing 680 square feet for a kitchen, as well as additional square footage to replace the factory with expanded retail space and additional seating. There would be no changes to the structure and only interior modifications were being proposed.

Planner Ward noted that the kitchen space triggers a restaurant use under the Land Management Code, which requires a conditional use permit in the Light Industrial Zone. The Planning Commission approves these conditional use permits if reasonable conditions are proposed or can be imposed to mitigate reasonably anticipated detrimental effects.

Planner Ward stated that the Staff was recommending a few conditions of approval to address compliance with the sign code and the outdoor lighting ordinance, and also to screen outdoor recycling dumpsters and compost bins on the site. Planner Ward remarked that the main conditions of approval are geared to parking. The parking requirement for the current use is 16 spaces. If the proposed use were designated a cafe, the parking requirement would remain the same. She noted that cafes are defined in the LMC as businesses that primarily sell beverages for onsite consumption.

They do not have a commercial kitchen and do not employ hostesses, wait staff, bus staff, chefs or other employees typically associated with a restaurant. Planner Ward

thought that sounded very much like the proposal for changes to Ritual Chocolates; however, the proposed 680 square foot triggers the restaurant definition in the LMC, which requires four additional spaces for a total of 20.

Planner Ward stated that the parking is shared. When the Ironhorse Park Commercial Subdivision was approved, two plat notes allow for shared parking onsite. There are 16 designated parking spots for Ritual Chocolates within Parcel E. Mercer has 37 dedicated spots. There are also ten shared parking spots. Planner Ward reported that the Ironhorse Park Commercial Subdivision requires two conditions for parking. The first is compliance with the CC&Rs and the second is approval by the Trustees. The CCRs allow owners to enter into agreement for reciprocal parking within the subdivision, as long as the minimum parking requirements and City ordinances are satisfied. There are a total of 87 parking spaces onsite. With the current uses in place, 21 spaces are required for minor commercial retail and service; 6 for office space; 3 for the auto related service, and 20 for the restaurant use. Planner Ward stated that with the existing uses, there are 85 required parking spaces and 87 available spaces. She reiterated that Ritual Chocolate has 16 designated spaces and 10 spaces that are shared with Mercer Automotive.

Planner Ward reported that the second requirement is approval by the Trustees. The Staff report contained an exhibit with a letter that was submitted.

Planner Ward stated that some of the recommended conditions of approval include addressing potential changes to the interior of the restaurant use. If the retail is reduced and the restaurant use is expanded in the future, this would trigger re-evaluation of the parking to ensure that the 10 shared parking spaces are still sufficient considering all the other commercial uses in the subdivision at that time. If the total parking does not meet the parking requirements, the Staff could request a parking study and management plan, and additionally require their staff to park in the spaces that are shared with Mercer automotive, so the 16 spaces are available to Ritual Chocolate customers. A condition of approval outlines this requirement and restricts the staff parking to no more than five spaces. Planner Ward stated that if the service transitions from counter service to table service and additional staff are employed, the Planning Director could request a parking study and re-evaluate the shared parking. If there are significant changes of use within the subdivision and it is determined that the parking does not sufficiently address the demand, the Planning Commission could re-evaluate the parking for the restaurant use specifically.

Planner Ward referred to the subdivision plat shown at the beginning of her presentation and noted that the parking she discussed is north of Ironhorse Drive.

However, there are additional parking spaces to the south of Ironhorse Drive could be brought in to meet some of the parking needs.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the restaurant conditional use permit.

Robbie Stout, the applicant, had nothing new to add. He thanked Planner Ward for her efforts and her presentation this evening. Mr. Stout stated that he was excited to move forward with the proposed plan at Ritual Chocolates. He thought it was a natural evolution of how things have evolved in the community and how they Ritual Chocolates has evolved from more of a chocolate factory into a community hub. He noted that a lot of cyclists come in.

Chair Phillips stated that he initially had concerns with what would happen if the uses of the other units change, but after hearing the presentation he thought the Staff had devised a plan if that occurs. Chair Phillips remarked that he frequents many of the business there and he has never had a hard time finding parking. He believed his concerns were addressed this evening.

Commissioner Suesser asked the applicant to speak to their parking needs as they have become a community hot spot, and whether they think the parking is adequate. She asked if having more cyclists has had an impact on the parking. Commissioner Suesser wanted to get a sense of the current situation.

Mr. Stout stated that they used to have the chocolate factory and the cafe. For the last five years they had the entire production team as well as the baristas, which was quite a few employees. Now that the factory is gone, the number of employees has reduced, and it will never be that high again with just the cafe. Mr. Stout clarified that they are not planning on sit-down service like a restaurant. It will still have the cafe model of ordering at the counter to go or to eat in-house. He stated that most customers will have a very short dining time and cars should not be parked there for more than an hour max and less in most cases.

Mr. Stout stated that cyclists do not cause parking problems because they come on their bikes. Most of the cyclists belong to a local club and he has good communication with the Club in general. They continually request that people not drive to the cafe and park to go on their bike ride. In terms of the lot being full, he has never heard a credible complaint from customers that they could not find parking. Historically it has not been a problem, and as they move forward, they will put more emphasis on the employees parking on the 10 overflow spots in hopes of leaving the 16 dedicated spaces open for customers at all times. Mr. Stout stated that there have been no parking problems in

the past and he could not foresee any future issues as long as they are smart about signage and asking employees to park in the overflow parking.

Chair Phillips asked if there were bike racks. Mr. Stout answered yes. The bike racks are old, but as they grow this year, he would like to improve the bike parking.

Commissioner Suesser asked where the chocolate factory was moving to. Mr. Stout replied that the chocolate factory has already been moved to a 12,000 square foot space in Heber.

Chair Phillips opened the public hearing.

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

Chair Phillips closed the public hearing.

Chair Phillips liked that the business promotes the bicycling community in Park City. It was also nice to see the business grow. Mr. Stout stated that the cafe component of the business has been entirely community driven. They did not initially set out to have a cafe. It was mostly a chocolate shop with hot chocolate, but the community kept asking for more products. Chair Phillips pointed out that the area where Ritual is located is in close proximity to the highest density of residents in Park City. He assumed there were a lot of walk-in customers as well.

Commissioner Hall asked if the Mercer dedicated parking was restricted only to their building. Mr. Stout answered yes. There were also 10 spots in the Mercer lot that are dedicated as shared spaces for the businesses in the business park. He noted that Mercer is closed on weekends, which is his busiest time of the week.

Commissioner Hall stated that she would patronize Ritual before Covid, but she did not recall seeing any signage for dedicated parking. Mr. Stout stated that currently there is a small sign that says this is Mercer's lot and another sign that says Little Gym's lot, please do not park here. Mr. Stout remarked that if it becomes an issue with the neighboring businesses, they could definitely put up more signage.

Chair Phillips noted that one of the Staff recommendations was to comply with the City's sign ordinance. Planner Ward replied that he was corrected. Also, the exhibit submitted by Mary Wintzer includes plans to update the signs to clarify which parking spaces are allocated.

Mary Wintzer, representing the applicant, stated that she had the signs made and they were at her office. When this came up and Ritual needed to go through the Conditional Use process, she waited to install them until they knew the outcome.

Commissioner Thimm thought the City should encourage the use of shared parking with the understanding that there are compatible uses that can allow for fewer stalls and still accommodate the needs.

MOTION: Commissioner Thimm moved to APPROVE the Conditional Use Permit for 1105 Ironhorse Drive allowing restaurant use in the Light Industrial Zoning District, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as outlined in the Staff report. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1105 Ironhorse Drive

1. In 1993, the City Council approved the Ironhorse Park Commercial Subdivision, a seven-Lot subdivision located along Iron Horse Drive and Bonanza Drive in the Bonanza Park Neighborhood (Summit County Recorder No. 425123).
2. 1105 Iron Horse Drive is Parcel E, a 0.44-acre Lot within the Ironhorse Park Commercial Subdivision.
3. 1105 Iron Horse Drive is located in the Light Industrial Zoning District.
4. 1105 Iron Horse Drive contains a one-story, 2,888-square-foot Building.
5. Over the years, 1105 Iron Horse Drive was operated as The Lost Sock Laundry (1993), The Green Building Center (2008), District Gallery (2009), Slackbow LLC (2011), AvantLink (2012), and Ritual Chocolate (2015).
6. Ritual Chocolate—a local chocolatier—currently operates a 500-square-foot coffee shop and 1,500-square-foot chocolate factory, an Allowed Minor Commercial Retail and Service Use in the Light Industrial Zoning District.
7. Ritual Chocolate proposes modifications to convert the Use to a Restaurant Use, to replace the factory with additional Restaurant seating and retail space (1,320 square feet), and to allocate 680 square feet for kitchen use.
8. A Restaurant Use in the Light Industrial Zoning District is a Conditional Use and requires Planning Commission approval.
9. On December 21, 2020, the Applicant submitted a complete application for a Conditional Use Permit.
10. 1105 Iron Horse Drive is located within the Bonanza Park Neighborhood (Exhibit B). The General Plan identifies this area as a mixed-use neighborhood and local employment hub.

11. The Lot is 0.44 acres, a small Lot in the Light Industrial Zoning District. The adjacent Lots are 1.35 acres, 0.86 acres, 5.11 acres, and 1.31 acres. The smaller 0.44 Lot is aligned with the General Plan recommendation to incentivize the subdivision of properties within the Zoning District for smaller developments and human-scale design.
12. Ritual Chocolate traffic is accessed through Iron Horse Drive.
13. No changes to access or vehicle circulation are proposed.
14. Currently, Ritual Chocolate operates the coffee shop from 8 AM to 5 PM. Ritual Chocolate plans to operate the Restaurant Use from 7 AM to 7 PM.
15. In 2019, Ritual Chocolate averaged 67 transactions per day.
16. In 2020, Ritual Chocolate averaged 73 transactions per day.
17. The majority of Ritual Chocolate business involves to-go orders with an average parking time of 5 – 10 minutes.
18. The Development Review Committee did not identify any utility capacity or storm water run-off impacts triggered by the conversion to a Restaurant Use.
19. The Development Review Committee did not identify any impacts to emergency vehicle access. No changes to access or vehicle circulation are proposed.
20. The Applicant proposes no changes to Fencing, Screening, or Landscaping.
21. The Applicant proposes no changes to the Building.
22. The Applicant proposes no changes to the Open Space.
23. The Applicant proposes no changes to the exterior of the existing Building.
24. No changes are proposed that will increase noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site.
25. Supplies are delivered to an existing door at the rear of the building, not visible from Iron Horse Drive. No changes to deliveries are proposed.
26. Ritual Chocolate does not have a trash receptacle on site, but rather uses one on the adjacent site. No changes to the trash receptacle are proposed.
27. Ritual Chocolate leases 1105 Iron Horse Drive from Wintzer-Wolfe Properties, Ltd.
28. On December 21, 2020, the property owner consented to the CUP application for the Restaurant Use.
29. 1105 Iron Horse Drive is not located within the Sensitive Lands Ordinance Boundary.
30. 1105 Iron Horse Drive is located within the Park City Soils Ordinance Boundary, but no exterior modifications are proposed.
31. 1105 Iron Horse Drive is not located on a Steep Slope.
32. The conversion of Ritual Chocolate from a small coffee shop to a restaurant meets the following goals and objectives of the General Plan:
 - a. Goal 12 – Foster diversity of jobs to provide greater economic stability and new opportunities for employment in Park City.
 - b. Objective 12A – Retain and expand existing Park City businesses.

- c. Objective 12C – Support locally owned and independent businesses that reflect the core values of Park City and add to the Park City experience.
33. 1105 Iron Horse Drive has 16 on-Site parking spaces, including one ADA compliant space. The current Minor Commercial Retail and Service Use requires three parking spaces for each 1,000 square feet of net leasable floor area, which excludes hallways, mechanical and storage Areas, and restrooms. Only six of the 16 parking spaces are required for the current Use.
34. The Applicant proposes interior modifications to allocate 680 square feet for kitchen use and 1,320 square feet for Restaurant seating and retail space. Restaurants require one parking space for every 100 square feet of net leasable area, including kitchen areas.
35. While the required parking for the Restaurant would be 20 spaces, the Applicant's proposal is a hybrid between a retail and Restaurant Use – the Applicant proposes expansion of a retail display area and a service counter rather than Restaurant table service. Retail has significantly lower parking requirements than Restaurant Uses – only three spaces are required for 1,000 square feet of net leasable area, rather than one space per 100 square feet of net leasable area.
36. The LMC reduces the parking requirement for Cafés. Cafés are defined as —a Business that primarily sells beverages for on-Site consumption. May serve food prepared off-premises but does not have International Building Code (IBC) Commercial Kitchen facilities and generally does not employ hostesses, wait staff, bus staff, chef, or other employees typically associated with a restaurant. ll
37. Staff worked with the Building Department to understand how the proposed Ritual Chocolate kitchen will be defined, and while small and geared for light pastry and soup preparation only, it will meet the Commercial Kitchen threshold, triggering the Restaurant definition. However, the parking requirements for a Café may better reflect the parking demand for the retail and service counter proposal. The required parking for a Café is the same as that of Minor Commercial Retail and Service: three spaces per 1,000 square feet of net leasable floor area, which would only require six parking spaces.
38. The 16 dedicated on-Site parking spaces may be sufficient for the proposed hybrid retail and Restaurant Use and staff recommends Conditions of Approval that reflect the proposed retail and Restaurant Use to mitigate parking demand and ensure adequate parking if the Restaurant Use is ever expanded.
39. If the 16 parking spaces are not sufficient at times, there are 10 additional shared parking spaces allocated in an agreement between Ritual Chocolate and Mercer Automotive, described below.
40. This shared parking is authorized pursuant to the Commercial Subdivision approval. 1105 Iron Horse Drive is Lot E of the Ironhorse Park Commercial Subdivision (Summit County Recorder Entry No. 425123). All Uses within the

Commercial Subdivision share a common Parking Area and access.

41. When the Commercial Subdivision was approved, standards were put into place so that there could be shared parking between Uses as Uses changed over time.

42. Note 1 of the subdivision plat says —see Covenants, Conditions & Restrictions for complete description of circulation easements and parking restrictions.¶

43. The First Amendment to Declaration of Covenants, Conditions and Restrictions – Ironhorse Park Commercial Subdivision ¶ 10.4 states —[n]othing in this declaration shall preclude the Owners from entering into agreements calling for reciprocal use of all of the available parking within the subdivision, or within parts of it, on a shared or common pool system in order to maximize parking use, so long as the minimum parking requirements of City ordinances have been satisfied.¶

44. Mercer Automotive is classified as an Auto-Related Service with ~7,500 square feet of net leasable space. The LMC requires 5 spaces per 1,000 square feet, totaling 38 required parking spaces. There are 37 parking spaces dedicated to Mercer Automotive and 10 parking spaces that are shared between Mercer Automotive and Ritual Chocolate.

45. To ensure the 16 on-Site parking spaces are available for Ritual Chocolate customers, the Applicant proposes that Ritual Chocolate employees park in the 10 parking spaces that are shared with Mercer Automotive. Ritual Chocolate has no more than five employees at any one time.

46. Note 3 of the subdivision plat says —no new occupancy will be permitted by the trustees if the parking requirement for the proposed occupancy, when combined with the parking requirement for all other tenants on that lot will exceed the available parking on that lot. The parking demand will be calculated in the manner described in the Park City Land Management Code for the particular use in question at the time the Use is changed.¶

47. On January 4, 2021, the trustees submitted a letter approving the proposed Restaurant Use and parking.

Conclusions of Law – 1105 Ironhorse Drive

1. The Application complies with requirements of the Land Management Code.
2. The Use will be Compatible with surrounding Structures in Use, scale, mass, and circulation.
3. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval

1. Changes to signage shall comply with the Municipal Code of Park City Chapter 12, Sign Code.
2. Outdoor lighting shall comply with Land Management Code § 15-5-5(J).

3. Unscreened recycle bins and compost bins located in the rear of the Lot shall be screened.
4. No more than five employees shall park within the Ironhorse Park Commercial Subdivision at any one time. Employees shall park in the designated spaces shared with Mercer Automotive. The 16 parking spaces on Parcel E shall be reserved for customer parking only.
5. The Applicant shall obtain a Building Permit for the proposed interior modifications.
6. The Conditional Use will expire one year from the date of Planning Commission approval unless the Applicant has commenced on the project or a Building Permit for the Use has been issued.
7. If any future renovations to Ritual Chocolate or other tenant or Owner operating a Restaurant Use at 1105 Iron Horse Drive reduces the retail and expands the Restaurant Use, the Planning Director shall re-evaluate the parking of the Ironhorse Park Commercial Subdivision to ensure the 10 shared parking spaces between Mercer Automotive and 1105 Iron Horse Drive continue to be sufficient for both Uses, considering all Commercial Use parking requirements within the Commercial Subdivision at the time of application. If the total parking within the Commercial Subdivision does not meet the parking requirements of the Land Management Code, staff may request a parking study and parking management plan.
8. If service transitions from counter service to table service and additional waitstaff and hostesses are employed, the Planning Director may request a parking study and shall re-evaluate the shared parking within the Commercial Subdivision, considering all Commercial Use parking requirements within the Commercial Subdivision at the time of the proposed change. If the total parking within the Commercial Subdivision does not meet the parking requirements of the Land Management Code, staff may request a parking study and parking management plan.
9. If there are significant changes of Use within the Ironhorse Park Commercial Subdivision and staff makes a determination that the parking does not sufficiently address parking demand, staff may request that the Planning Commission reevaluate the parking for the Restaurant Use.

5.B. Daly Avenue, Empire Canyon Raw Water Storage Tank – A Conditional Use Permit (CUP) Application to Replace Aging Infrastructure and Install a New Essential Municipal Services Water Storage Tank and Appurtenances in the Recreation Open Space (ROS) Zone. (Application PL-20-04711).

Planner Brendan Conboy reviewed the conditional use permit application for an essential public utility greater than 600 square feet in the Recreation and Open Space

Districts. Planner Conboy stated that they were specifically talking about the replacement of a water tank located at the terminus of Daly Avenue, also known as Empire Canyon Road, just beyond the gated trailhead.

Planner Conboy stated that the proposal includes the demolition of an existing 73' diameter, 32' tall, one million gallon above ground steel water storage tank that was built in 1978. It also involves the demolition of a smaller 166 square foot concrete masonry unit building, and the demolition of an existing meter and vault. It will all be replaced by a new 200,000 gallon buried reinforced concrete raw water storage tank, and a new 485 square foot buried bunkered concrete vault. It will all be regraded and reseeded to blend into the surroundings.

Planner Conboy presented a slide showing the existing conditions and another slide showing the proposed conditions. He presented the site plan and noted that it will be a smaller envelope. Since everything will be buried the site will be cleaner and more aesthetic.

The Staff analyzed the application for the zoning district and found that it complied with the purpose of the Recreation Open Space Zone. They checked setbacks and concluded that utilities can be located within the front and side rear setbacks. Planner Conboy noted that the site sits across two parcel lines; however, due to an exemption it still complies. The height limit is 28' in the zone and the new tank will be in conformance. The regraded landscaping will also comply.

Planner Conboy reported that the Staff analyzed all 16 CUP criteria and found no unmitigated impacts as conditioned. Planner Conboy stated that per the LMC, the square footage of the operation would trigger 5 parking spaces. In speaking with the City Attorney and interpreting the Code they determined that 5 spaces did not make sense because it was not habitable square footage. They reached a compromise for a condition of approval that requires one parking space when workers go to the site. The area in front of the sampling metering vault was designated as meeting the required dimensions.

Planner Conboy stated that the site is within the Sensitive Lands Overlay. The Staff analyzed the submitted materials for compliance with the Sensitive Lands Overlay Analysis Criteria and found that the applicant met all eight requirements as conditioned. One condition of approval still outstanding was the submittal of a wildlife memo report by a qualified professional stating that wildlife will not be impacted by the replacement of the water tank. He had received that report just prior to the meeting and had forwarded it to the Planning Commission. Planner Conboy had not had the opportunity

to review the report in detail, but the conclusion of the report was that there would not be any major wildlife impacts to any threatened species.

Planner Conboy reported that the Operations and Maintenance Plan for Empire Canyon is the governing document that rules this area. The site is within a Comprehensive Environmental Response Compensation and Liability Act (CERCLA) site. A governing document for operation and maintenance which has provisions above and beyond the requirements of the SLO will help mitigate impacts as well.

Planner Conboy noted that the Staff was able to make all the required findings for conditional use permits.

Planner Conboy reported that the Construction Management Plan that was proposed by the applicant and codified into the conditions of approval shows access coming from Ontario Canyon. No access will be allowed from Daly Avenue.

Planner Conboy walked through the Conditions of Approval as outlined in the Staff report.

Roger McClain from the Public Utilities Department was the representative for the applicant, Park City Municipal. Mr. McClain was on the line and prepared to answer questions.

Commissioner Suesser asked about the construction timeline on the project and when it was anticipated.

Ms. McClain stated that the schedule is to begin construction in 2021 and being completed by November 2021. When the construction begins is variable because the existing steel tank needs to come down. The contractor would like to start a little earlier while the conditions are still damp to mitigate any construction issues. Mr. McClain remarked that the tank needs to be online by the end of the year to be ready for conveyance of water from the Judge tunnel to the treatment plant, as it is being constructed and finalized in 2023.

Commissioner Thimm referred to the trail system that passes through that site and asked if the intent is to maintain that trail intact throughout construction. Mr. McClain answered yes. They recognize that the area is heavily used going up Empire Canyon; therefore, the construction mitigation plan provides fencing to keep construction equipment and vehicles separated from the trail users.

Chair Phillips opened the public hearing.

Paul Pilzer raised his hand on Zoom and was unmuted to make comment.

Paul Zane Pilzer asked why they were going from a 1-million-gallon tank to a 200,000 gallon tank.

Mr. McClain stated that this is an operational tank as much as storage tank. It is used to control the water coming out of the Judge tunnel and feeding to the treatment plant. It is not the large storage vessel that it used to be. Mr. McClain remarked that it is a wide spot in the Judge pipeline. He explained that they no longer need the storage, and the tank will be for operational purposes only. Mr. McClain noted that they rarely downsize anything, and this was a case where it could be done.

Mr. McClain stated that the last time he was before the Planning Commission he brought the Three Kings Water Treatment Plant. He was happy to be bringing a project that could actually be hidden and make improvements to the surrounding area.

Chair Phillips agreed that this project was a huge improvement visually in an area that is heavily used.

Chair Phillips closed the public hearing.

MOTION: Commissioner Thimm moved to APPROVE the conditional use permit for the Essential Municipal Public Utility Use - Empire Canyon Raw Water Storage Tank Facility Service and structure greater than 600 square feet in the Recreation Open Space District, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as outlined in the Staff report. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - Empire Canyon Raw Water Storage Tank

1. The applicant's proposed replacement water storage tank and appurtenances are located within an existing reservoir easement granted to Park City Municipal Corporation for municipal water storage and conveyance recorded in September of 1978 (Summit County Recorder, Entry No. 147912) on properties owned by United Park City Mines Company.
2. The site of the water tank and appurtenances on the subject properties is legally described as an 'easement for a reservoir' within the aforementioned easement.
3. The water tank is in the general location of the terminus of Daly Avenue/Empire

Canyon Road on an unpaved section of road within Empire Canyon.

4. The subject property is located within the Residential and Open Space (ROS) Zoning District.

5. An Essential Municipal Public Utility Use, Facility, Service, and Structure, greater than 600 square feet is a Conditional Use in the ROS Zoning District.

6. On October 23, 2020, the Applicant submitted an application on behalf of Park City Municipal Corporation to request the Commission review and approve a Conditional Use Permit for the Empire Canyon Raw Water Storage Tank.

7. The proposal will result in the demolition and removal of an existing 73 foot diameter, 32 foot tall, 1,000,000-gallon, aboveground steel water storage tank constructed in 1978; the demolition and removal of an existing 166 square foot aboveground concrete masonry unit building containing treatment equipment and valving; The demolition and removal of an existing buried metering vault; A new 200,000 gallon, buried, reinforced, concrete raw water storage tank; A new 485 square foot buried/ bunkered concrete vault/ equipment structure and associated buried piping; and Site regrading and reseeding

8. The proposed new structures will be comprised of a buried tank structure with a 3,840 square foot footprint. The existing above ground tank being replaced is 4,185 square foot footprint; The buried vault structure is a 458 square foot footprint. The existing above grade building being replaced is a 166 square foot footprint.

9. The proposed new structures will replace existing structures and bury structures with minimal northern façade exposed clad in Cor-Ten corrugated steel to minimize visibility impacts from adjacent trails.

10. The subject site location on Daly Avenue is a narrow and steep street. The site is not accessible by public vehicular traffic.

11. A Conditional Use Permit will not alter the required emergency vehicle access.

12. The applicant proposes landscaping changes that will screen the development and increase landscaping on site over existing conditions.

13. The building mass, bulk, orientation, and location will be reduced from existing conditions.

14. No signs or additional lighting are proposed to be installed.

15. No noise, vibration, odors, steam, or mechanical factors that might affect people and property are anticipated.

16. No deliveries beyond what are reasonably expected for a water storage tank are anticipated.

17. The property will be maintained by the Park City Public Utilities Department.

18. The Empire Canyon Raw Water Storage Tank is located outside the Park City Soils Ordinance Zone.

19. The Empire Canyon Raw Water Storage Tank is located within the Sensitive Lands Overlay and complies with the requirements.

Conclusions of Law – Empire Canyon Raw Water Storage Tank

1. The proposed application, as conditioned, complies with the requirements of the Land Management Code.
2. The proposed water storage tank is compatible with surrounding structures in use, scale, mass, and circulation.
3. The proposed water storage tank is consistent with the Park City General Plan.
4. The effects in difference in use or scale of the water storage tank have been mitigated through careful planning and Conditions of Approval.

Conditions of Approval - Empire Canyon Raw Water Storage Tank

1. At time of Building Permit submittal the applicant shall designate a location on the plans for maintenance workers to temporarily park a service vehicle within the reservoir easement site on the submitted site plan. The parking area shall not obstruct the road/trail access. The parking area surface shall be unpaved, of sufficient grade, and of like appearance to the roadway and/or natural surroundings and measuring a minimum dimension of 9 feet in width by 18 feet in length.
2. At the time of Building Permit submittal the applicant shall supply a Construction Management Plan to be approved by staff.
3. All workers and personnel onsite shall have HAZWOPER training.
4. The project site shall be fenced with signage directing trail users around the construction area. The applicant shall install trail sign directions indicating path around construction site. The contractor shall coordinate sign content with the owner.
5. The applicant shall maintain trail user access and protection during construction. The applicant shall maintain a 10' wide trail user access along the unimproved road during construction, delineated with orange Limit of Disturbance fencing.
6. No parking, staging, or stockpiling materials outside the existing reservoir easement is allowed.
7. No construction access is allowed from Daly Avenue. The site instead must be accessed from Ontario Canyon and the Mine Bench Site. The applicant shall ensure that all gated security points are kept secure and in operation while accessing the site.
8. The main 8" line, along with the associated easement, shall be shown and labeled on the Site and Grading Plan.
9. Prior to issuance of Building Permit, the applicant shall provide staff a report/memo prepared by a professional qualified in the areas of ecology, wildlife biology, or other relevant disciplines which establishes that wildlife will not be impacted by the replacement of the water tank.

10. Access along the easement must be maintained for SBWRD and all other parties with vehicular access to the site including utilities and emergency vehicles.

11. The installation of the 2' riser on the existing sewer manhole (Private flow meter manhole) will need to be inspected by SBWRD.

12. All excavated existing material shall remain on site, be incorporated into the site grading, and be capped with a minimum of 18 inches of clean material consistent with the Park City Soils Ordinance Boundary lead and arsenic level requirements. Imported fill material shall be clean and consistent with the Park City Soils Ordinance Boundary lead and arsenic level requirements.

5C. Land Management Code Amendment – The Planning Commission will Consider Updates to the City’s Outdoor Lighting Regulations, Land Management Code §15-3-3(C), § 15-3-4(C), and § 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. (Application PL-20-04545)

Planner Rebecca Ward noted that the Staff has been working through the proposed outdoor lighting code based on input at the beginning of 2020, with the to achieve some of the General Plan goals and to mitigate the impacts of outdoor lighting. As part of the process, the Staff received significant community input. In addition, 306 community members participated in a survey and provided input. The Staff worked to craft the Code based on that input. Planner Ward stated that the Planning Commission held two work sessions and a public hearing, and the Staff incorporated the input received from the Planning Commission into the proposed draft. Planner Ward stated that recently the Staff created a webpage, a survey, and a mailer was sent to property owners within the City. There have been several virtual discussions and the Staff reached out to Homeowner Associations and other associations within town.

Planner Ward stated that as part of the work sessions and public input from the survey, more than half of the respondents believe their lighting already complies with the proposed Code. For outdoor lighting fixtures that may not be fully shielded but are partially shielded, under one of the exemptions those would comply with what is being proposed. For example, lights that were approved by the Planning Department within the last five years would comply with this proposal.

Planner Ward remarked that the cost of retrofits could range from a few hundred dollars to thousands. She noted that 73.9% of community members thought they could bring their lighting into compliance by a 2024 deadline. There was not strong support on regulating indoor lighting in ridgeline areas. Therefore, this Code was crafted

specifically to outdoor lighting. Approximately 69% of the respondents would like the City to seek an International Dark Sky Community designation. Planner Ward clarified that the dark sky designation was not being proposed as part of this LMC amendment; however, it was something the City could consider in the future.

Planner Ward reported that the Code has not been updated since 1998 and does not address technology such as LEDs and best practices in outdoor lighting. The goal is to conserve energy, to protect the ecosystems and wildlife, protect human health, public safety, and require good neighbor lighting, and at the same maintain a balance for recreational uses.

Planner Ward stated that there are three main aspects to the Code; set a maximum for Lumens, establish a maximum of 3,000 degrees Kelvin, and a fully shielded requirement for outdoor fixtures. Planner Ward noted that exceptions are carved out for historic fixtures and replica fixtures as long as they have a low lumen bulb, which reflects historic lighting. The Code is also crafted to exempt streetlights. The Staff received a lot of public input regarding the cobra headlights on the Rocky Mountain Power Poles. Planner Ward reported that beginning this month, Rocky Mountain Power initiated a new program where they now offer updates with fully shielded lights that are 3,000 degrees Kelvin. She noted that as discussed in previous meetings, the streetlight policy has been ahead of the LMC Amendment in that streetlights that are now installed throughout the City are fully shielded and below the Kelvin requirement at 2700 degrees Kelvin.

Planner Ward commented on concerns regarding public safety and potential impacts that the Code could have on public safety. The Staff went through the draft and made significant changes to ensure that there is sufficient lighting for the community to feel safe. She noted that the Park City Police Department had reviewed this Code.

Planner Ward outlined the changes. They exempted the parking area lighting from maximum lumen constraints. They removed the maximum lumen constraints for residential properties. They exempted public trails lighting. They doubled the maximum lumen regulations for multi-unit dwellings and non-residential properties.

Planner Liz Jackson commented on the ridgeline aspect. She noted that the Staff had added criteria and clarification on how to regulate that lighting, which include allowing the minimum lighting necessary for pathways, entryways, and private outdoor areas; prohibiting floodlights; setting a 12' height limitation on outdoor lights; encouraging ground level fixtures; and require additional shielding. In addition, there will be reviews by the Staff and Planning Commission in certain instances.

Chair Phillips commented on the 12' height limitation on outdoor lights. He assumed they were freestanding lights rather than lights that are fixed to a structure. Planner Jackson replied that it was 12' in general; however, based on feedback it was clarified that something like a light under a deck or a soffit light could be acceptable if reviewed and approved by the Staff. It would depend on the situation.

Planner Jackson commented on seasonal lights. She stated that the Staff proposal follows Summit County's allowed timeline of November 1st to March 1st, as opposed to the April date currently in the Code. Residential lighting would be turned off by 11:00 p.m. and commercial lighting by midnight. The lights must comply with zone setbacks and not cause trespass or greatly impact other properties. Planner Jackson pointed out that based on previous discussions, Main Street, Swede Alley, and commercial uses would be exempt from the November 1st to March 1st duration. The HPCA requested that the light be allowed to stay on until 2:00 a.m., and that change was reflected in the redlines. Planner Jackson stated that the Staff also distinguished seasonal lights and holiday lights from typical string lights on a porch.

Planner Jackson commented on questions regarding light fixture replacements and outlined certain options. Not all light fixtures require replacement. Most metal fixtures and different bulbs can be recycled. There is also an option for fixtures that are already down directed that have an opaque top and a glass globe. The globes can either be replaced or techniques can be done to frost the glass. Planner Jackson stated that the Staff reached out to manufacturers and distributors regarding those techniques. They were also informed about the potential option for dark sky bulbs. The bulbs might not be a perfect solution to retrofitting because they could easily be replaced but it is still an option.

Planner Jackson stated that in terms of replacement, the proposal exempts low lumen lights pursuant to Summit County and Moab's adopted standards. She noted that those can often comply by just replacing the bulb. Lights that meet the 3,000-degree Kelvin requirement and shielded by a roof overhand are exempt.

Planner Jackson outlined the compliance timeline. She stated that outdoor lighting that was installed after the effective date of the ordinance will need to conform. Any outdoor lighting that legally existed and was installed prior to the effective day of the ordinance will need to conform by December 31, 2024. There is a potential to condition business licenses, including those for nightly rentals, on outdoor lighting compliance as of January 1, 2025. Compliance for site improvements, reconstruction, expansion, alteration or modification of an existing structure. Any damaged or inoperative non-conforming lighting to be replaced or repaired will need to comply.

Planner Jackson stated that moving forward, the Staff is planning an informative mailer and web page that is accessible to all property owners within Park City, as well as adding a one-page informational attachment to development applications through the Planning and Building Departments. The Staff also plans to continue community meetings for the updated lighting code to go over lighting requirements through 2024, and to continue outreach efforts to the community groups listed earlier in this presentation. Planner Jackson remarked that the Staff was looking into grant funding opportunities for community members to utilize. They have been working with the University of Utah to collaborate with their dark sky consortium, as well finalizing a plan in 2021 to bring outdoor lighting for City-owned building into compliance. She reiterated that they were working with Rocky Mountain Power to update the cobra headlights.

Planner Jackson stated that enacting the proposed lighting code now will help mitigate the outdoor lighting for the major development the Planning Commission is currently reviewing. The proposed Code helps Park City align with Summit County's Code and the neighboring communities that are currently updating their lighting codes.

The Staff recommended that the Planning Commission review the outdoor lighting amendments, conduct a public hearing, and forward a positive recommendation for City Council consideration on January 21, 2021, with the following amendments: The first was specific to ridgelines and amends redline 421 to include "outdoor lights may not exceed 12' above existing grade. An exception may be granted for deck areas that are 12' above existing grade but additional shielding may be required". The second amends redline 492 to include "as an exception to the fully shielded requirement, a down directed luminary that is shielded by a deck or patio roof overhang or similar solid structure shield that extends at least 5' beyond the luminaire and directs all light emitted by the luminaire below the horizontal plane of the roof overhang or similar solid structural shield". Planner Jackson clarified that the amendment is to clarify that a light underneath that type of roof overhang will be exempted for this instance.

Chair Phillips asked if the stated amendments were specific to the ridgeline portions. Planner Jackson replied that 421 was specifically ridgeline, but 492 would be one of the exceptions.

Chair Phillips liked how the Staff had distinguished between string lights versus seasonal lights as requested by the Planning Commission. Chair Phillips asked if the historic fixtures were tied to historic structures, or whether someone building a new modern home could purchase a historic fixture for their home. Planner Ward stated that based on how it was drafted, the intent is if the structure is on the Historic Sites Inventory and the historic fixture is associated with the structure and goes through the same process to contribute to the historic integrity, it could be exempted. If that intent

is not clear the language could be further amended. Chair Phillips clarified that he was comfortable giving the exemption for historic buildings and he thought the language should clearly codify the intent.

Commissioner Thimm commented on the recommendations amending redline 421. He noted that the word "may" was used twice in the sentence. He was not opposed to the first use, but the second use of "may" seemed unenforceable. Commissioner Thimm suggested revising the language to state, "The need for additional shielding will be evaluated and will be required if the need is determined by the Planning Staff".

To address Chair Phillips concern, Planner Ward amended 410 to clarify fixtures on sites listed on the Historic Sites Inventory.

Commissioner Hall commented on the exemption for the fully shielded requirement for the down directed lights of 5' beyond. She asked the Staff to explain how that works with overhang. Planner Ward explained that it is exempted if the roofline extends 5' beyond the luminaire extending outward. She noted that the language was taken from other code examples to clarify that it would not apply to a slight overhang. It needs to be the overhang of a deck or some other extended feature. Commissioner Hall understood that once a homeowner replaced the light bulb to the proper kelvin and lumens, even if the fixture is not in compliance with a partially shielded one, the exemption applies if the light is 5' deep from the roof line regardless of how high the roof is above it. Planner Ward replied that as drafted, Commissioner Hall's interpretation was correct.

Commissioner Hall thought 5' was a significant overhang. Chair Phillips agreed. A roof over a deck or a deck itself were the only overhangs he could think of that would be 5'. Chair Phillips stated that if the light is 6' high and the roof overhang is 15' higher from that, it will not stop the light from going up into the night sky because of the angle. He was unsure how often that would be a problem.

Commissioner Hall agreed with Chair Phillips. When he read the Staff report he thought 5' was an extensive overhang. Commissioner Hall asked if 5' was the necessary requirement for dark sky. She believed many homeowners who do not have light fixtures that are fully shielded would not fall under this exemption. Planner Ward stated that the intention is to distinguish between a typical overhang and something that is within an enclosed deck or patio area. Based on how the Code was applied in the past, the Staff has required lighting similar to what is outlined in the exemptions for the fully shielded requirement. As long as there was an opaque cap at the top of the light, the light was down directed, and there was some sort of non-glass globe, those lights in the past were considered fully shielded. The Staff was trying to shape this Code so

lights that were approved in the last five years would still comply with this Code. As part of the approval process, if a light was under a roof overhang they were exempted. Planner Ward noted that the proposed Code amendment would align with approvals that have been consistent over the past five years.

Commissioner Hall reported that she had sent Planner Ward pictures of all the light fixtures on her street to get a sense of how this would impact her neighbors and many others throughout town. She noted that most of the lights would not be in compliance because the overhang is not 5'. Out of the six homes on the small cul-de-sac, none were fully shielded, three are already frosted and three were not. The three that were not frosted are under an overhang, but they would not meet the 5' overhang. Commissioner Hall remarked that half of the people on her street would need to replace their light fixtures.

Planner Ward noted that the Staff responded to Commissioner Hall's email. She stated that after reaching out to the manufacturers, there are options to bring those glass fixtures into compliance without replacing the fixture. The intention is to bring the Code to allow flexibility for what has been approved in the past five years, but also to mitigate unshielded lights. Commissioner Hall asked if 5' is the required overhang in order for it to be dark sky. She pointed out that the three homes on her street that would not comply with the 5' overhang could comply with a smaller overhang.

Commissioner Suesser asked the Staff to clarify what falls under the approvals in the last five years. Planner Ward stated that in the current Code, nothing requires outdoor fixtures to meet the standards being proposed. She presented images fixtures that were approved in the past five years. In one, the Staff required the transition to the glass. In another there was some painting of the glass, which was considered fully shielded, to the extent that the Code allowed at that time. Planner Ward pointed out that this has been the standard for the last five years. The Staff tried to craft the proposed amendment to allow the lights that were approved in that timeline under those standards to continue to apply without additional retrofits.

Chair Phillips wanted to provide as much as information as possible, including directing people to the fixture manufacturer for potential retrofits. He thought it was important to provide that information in an effort to lessen the impact on the homeowners. Chair Phillips thought it was important to amend the lighting ordinance as drafted to protect the night skies from light pollution. He stressed that the public information portion would be key in helping everyone reach that goal.

Commissioner Thimm asked if whether the light fixture shown on the right of the slide was in compliance under the new Code. Planner Ward answered yes. Commissioner

Thimm asked if coming into compliance is burdensome on a homeowner in the City, if there is a way to apply for an exemption if they have not complied by 2024. Planner Ward replied that the existing Code has language regarding exemptions, but it would not apply in this case. She thought the images shown were from a recent project in town. Planner Jackson clarified that the photos were taken at an inspection that occurred in December. Planner Ward noted that bringing the light into compliance was easily addressed with paint.

Planner Ward stated that the Staff was committed to doing everything they could to make this process as easy and painless for the community as possible. Planner Jackson noted that Exhibit G is the draft for an example mailer of retrofits. She thought Chair Phillips was correct about making sure they have as many resources available to the homeowners as possible. She thought it could be a matter of pivoting when the community starts asking questions. When they spoke with the different manufacturers and distributors, oftentimes their answer was "it depends". Planner Jackson believed there were a lot of resources from the manufacturers themselves to the companies that do the sandblasting for pieces of glass. The Staff was open to as much information as possible.

Commissioner Hall clarified that in general she was supportive of the Dark Skies Ordinance, and she believes this is a good idea; but she was not comfortable creating a problem for her neighbors and others rather than solving a problem. She was trying to find a solution that supports the Dark Skies Ordinance without causing problems for her neighbors. Commissioner Hall thought the proposed amendments made sense for a lot of areas in town because of the close proximity to neighbors.

Commissioner Suesser asked if there was some consideration for not making the changes retroactive. She suggested moving forward that lights cannot be replaced with anything that does not comply and any new lights or fixtures installed in the future need to be compliant. Commissioner Suesser questioned whether it was necessary to ask people to retrofit their existing lights. She also suggested the possibility of extending the compliance date.

Planner Ward replied that removing the compliance timeline section of the Code was an option, as well as having the ordinance only apply to all new projects moving forward beginning on the day the code is enacted. She noted that other communities have done that; however, in the dark skies survey and in their outreach to community members, the support has been overwhelmingly positive for moving in this direction. As far as meeting the timeline, the majority of people who participated in the survey felt the 2024 timeline was reasonable. Planner Ward reported that the Staff chose that date because Summit County recently updated their Code and require compliance by March

2024. They tried to align with Summit County's regulations but pushed the timeline to December 31st of 2024.

Chair Phillips was willing to have a discussion to address the concerns and suggestions raised by Commissioners Hall and Suesser; however, he personally supported being in alignment with Summit County and reducing light pollution. Chair Phillips asked how Moab handled their requirement and whether they had established a compliance date. Planner Ward replied that Moab will have a timeline, but it has not yet been defined because they are still in the phase of updating lights.

Commissioner Thimm supported Commissioner Suesser's suggestion for having the requirement applicable to new construction. He would also add "or replacement" to her suggestion. Commissioner Thimm pointed out that at some point everything eventually needs to be replaced. Chair Phillips did not disagree; however, generally people do not come to the City when they need to replace a light fixture on the front of their house. Chair Phillips thought it was important to have a compliance date, but he was not opposed to pushing back the date.

Commissioner Van Dine agreed with pushing back the date but keeping it as a requirement. She was not in favor of grandfathering in or having exemptions for prior approved lighting. It is still light pollution and Park City is very progressive. These are progressive goals that she believed were very doable.

Commissioner Kenworthy concurred with Commissioner Van Dine. He also factored in the fact that it is a reduction of electrical and helps towards the overall City goal to reduce and become net zero. Commissioner Kenworthy was sympathetic to the point of view that one code needs to fit so many different neighborhoods. He recognized that it is difficult but preferred to err on the environmental side of the issue.

Commissioner Hall stated that she has always been an advocate for environmental sensitivity and sustainability, which also goes hand in hand with her concern about being wasteful by throwing away perfectly good light fixtures. Commissioner Hall was unsure whether there was a way to exempt construction and remodels in certain areas that are less dense and have the Code apply to areas that are denser, which was driving the support for these amendments.

Chair Phillips understood that the issue is the cumulative light coming up from the City into the sky. It is not necessarily the light from a denser neighborhood shining into their neighbor's property. Even though it may be darker in certain neighborhoods, the cumulative impact on the sky is the problem and having universal compliance across the City will lessen that impact. Commissioner Hall understood the cumulative effect;

however, a lot of the public comment has been about light from their neighbor. She would like to find a way to appease some people by mitigating the light pollution that directly impacts their neighbors versus others who feel like their street is too dark.

Chair Phillips opened the public hearing.

Paul Zane Pilzer raised his hand on Zoom and was unmuted to make comment.

Paul Zane Pilzer stated that he built homes in Park Meadows and he currently lives in the Aerie. Most of the larger homes he sees that are not in Old Town have a 3' or 4' overhang on their roofs, and most are mandated by the HOAs. Mr. Pilzer stated that there are no 5' overhangs because a 5' overhang means the house needs to be set back an additional 1' to 2'. He remarked that very few lots are big enough for a homeowner to afford to put his home on a 5' overhang. Mr. Pilzer stated that the 5' overhang is something that no one will be able to meet. Mr. Pilzer remarked that most of the overhangs have lights in them, but they are bent in. The roof is on a 30-degree angle and the light put in is a standard spotlight screwed in bulb, but it is not seen from the road. The overhangs are typically 12' or 24' high. They wash the walls of the house with light, which is a good thing because you never see the bare bulb. Mr. Pilzer liked the idea of making sure bulbs do not shine directly up into the sky causing light pollution, or into his face horizontal. As long as the light is focused towards the house on a 30-degree angle, it washes the wall, and it looks pretty. Mr. Pilzer remarked that almost everyone has those lights because it is the least expensive light to install. Mr. Pilzer stated that people are hurting financially right now, and it is not right to require them to retrofit their homes with new lighting. He was very upset about this proposal.

Mr. Pilzer asked if he was correct in understanding the soffit requirement. If he has an overhang 24' high and a light in the soffit 24' high shining towards the house on a 30-degree angle so no direct light is visible from the road, that would not be approved under the current proposal.

Planner Ward stated that under the current code soffit lighting is allowed and under the proposed Code soffit lighting is still allowed. She clarified that soffit lighting under the overhang would still be allowed if it is directly against the overhang. Regarding Mr. Pilzer's question regarding the overhang, Planner Ward explained that the overhang exemption would be specific for lights that are next to a front door within a deck area. However, Mr. Pilzer was correct about general overhangs. The soffit lighting would be allowed if there was additional lighting next to the soffit.

Mr. Pilzer clarified that a soffit 24' or 36' high washing the walls of the house would be approved. Planner Ward stated that it would be approved as long as the bulbs are 3,000 degrees Kelvin.

Chair Phillips informed Mr. Pilzer that a public hearing gives the public the opportunity to make their comments, but typically not engaging in discussion with the Staff. Chair Phillips appreciated Mr. Pilzer's comments. He should make his comments and ask his questions and the Staff will try to address them after the public hearing portion of the meeting.

Marc Ozarski raised his hand on Zoom and was unmuted to make comments.

Mr. Ozarski stated that he is on the agenda for the last item this evening and was just a casual observer on this item. He appreciated the difficult decisions the Planning Commission is faced with, and he thought the general intent of what they were trying to achieve is noble. Mr. Ozarski remarked that with respect to the idea of the retroactive application for the rules, he thought it was worthwhile to take a step back and think about that as a policy, and whether or not Park City wants to endeavor in retroactive rule making. He appreciated the idea that light pollution is important; however, he suggested they consider it in light of the importance of solid rule making and not necessarily generating consternation among people for changing rules once they have been made. Mr. Ozarski commented on the overhang issue and stated that the language was vague and could be clarified. He thought the objective was correct in trying to protect against the dissemination of light vertically. He suggested an approach that would implement some sort of ratio between the overhang and the distance that the light is beneath the overhang. From the standpoint of the examples presented this evening, he noticed the shielding and the idea of full coverage. He was unclear on the meaning of full coverage. Mr. Ozarski thought there could be simple clarifications that could meet the objective but create less ambiguity and more comfort for everyone.

Chair Phillips closed the public hearing.

Commissioner Hall stated that she could support changing out the lightbulbs to comply with the lumens and kelvin requirements, even retroactively, because it is an inexpensive, simple solution that would have a good impact. However, she was opposed to making fully shielded retroactive. Commissioner Hall agreed with the public comment in that generally she was hesitant to do anything retroactive. She would accept changing the light bulbs because it would not be expensive or burdensome, and it would have a significant positive impact.

Commissioners Thimm and Suesser agreed with Commissioner Hall. Commissioner Suesser understood that Chair Phillips and Commissioner Van Dine were looking at a different direction, but if the majority supported a non-retroactive direction, she thought the Staff should work on rewording the proposed language.

Commissioner Thimm asked if it was possible to reword the language this evening so the Planning Commission could take action. Planner Ward stated that in looking at the redlines, they could remove 497 to 501, which requires all outdoor lighting to come into compliance by December 31, 2024. She asked if the Planning Commission wanted to leave in the exemptions from the fully shielded requirement for new development that would allow some flexibility for outdoor lighting fixtures as long as there are mitigations; or whether they want those exemptions removed and all lights moving forward would be fully shielded.

Commissioner Thimm favored leaving the mitigations. Commissioner Hall agreed if the research shows it is sufficient for dark skies. In terms of retroactive, Commissioner Thimm liked the suggestion made by Commissioner Hall with respect to limiting the temperature of light sources retroactively to 3,000 Kelvin. Commissioner Suesser agreed. Commissioner Thimm clarified that it would still be based on the 2024 timeline.

Commissioner Hall asked if the Planning Commission could pause this application and ask Planner Ward to rewrite the language while they move through the rest of the agenda. Chair Phillips was not opposed to having Planner Ward rewrite the language for the Planning Commission to review so they could take action this evening.

Chair Phillips noted that as the Chair he would not be voting; however, he wanted it on the record that he supported the Staff report as written. He was more in favor of extending the compliance date. Chair Phillips believed that leaving it open and not having community-wide compliance would create enforcement issues.

Commissioner Suesser thought it made sense to include in the ordinance that going forward people should not be allowed to replace existing fixtures with non-compliant fixtures. She understood Chair Phillips' comment about enforcement, but she thought the entire ordinance had enforcement concerns. Commissioner Hall agreed.

Commissioner Kenworthy asked if they would put in a caveat encouraging people to work with the manufacturer, sandblast the glass, and some of those items. Commissioner Thimm thought that was part of the mitigations. He would like those to remain. Commissioner Hall thought the outreach could be the same and they should still educate people on measures they can take. It would just not mandate that people replace their fixture.

Chair Phillips stated that the Commissioners would move forward with the rest of the agenda while the Staff revised the language based on their comments and direction. The Planning Commission would review the revised language and take action after the last item on the agenda.

5.D. Land Management Code Amendment – Amendment to Footnote 2 of Section 15-2.1(B)(1), Uses, to Establish a Conditional Use Permit for Nightly Rentals in the Lower Rossi Hill Area of the Historic Residential Low-Density Zoning District. (Application PL-20-04613)

Planner Ward reviewed the proposal to correct an oversight from 2017 in the Land Management Code. The Planning Commission reviewed this item in September 2020 and decided not take action until the City Council conducted a work session on nightly rentals.

Planner Ward stated that Planning, Finance, Economic Development, Parking, Building, and Police Departments collaborated and worked on items that could be implemented to help improve internal tracking of nightly rental complaints, and to improve business license compliance numbers.

Planner Ward reported that on December 17, 2020 the Staff presented these proposals to the City Council, and the Council conducted a work session and voiced support. Planner Ward outlined what had already been put into place to date. She noted that previously the zoning map for nightly rentals was on one link of the website and the nightly rental business license application was on another link. The Staff consolidated all things related to nightly rentals onto one webpage, and they will be doing outreach to inform the community. As part of that, the Staff established an online complaint form so members of the community can go directly to the City's website to log their complaint, and those complaints are forwarded to all relevant departments. Planner Ward stated that the City issued a request for proposals for nightly rental inventory, compliance and analytic services. The City will be looking to a third party to track the nightly rentals listed so they can reach out and encourage business licensing compliance.

Planner Ward reported that a system was put in place so if the police respond to a noise or disturbing the police complaint, those addresses and complaints are sent to finance on a regular basis, and those complaints are linked to the business license and the City can take action if there are multiple complaints. Planner Ward stated that the City also allocated staff internally to make sure they can process more business licenses.

Planner Ward noted that the Parking Department is working on transitioning how they permit these lodging permits for nightly rentals. Currently it is a free hang tag. The Parking Department is updating to software where lodging permits will be done in a way that tracks the permit based on the license plate number for the vehicle. It will also be tied to the property and the property owner so vehicles that violate parking regulations will be linked to a nightly rental. Planner Ward stated that parking anticipates this program to be in place this summer.

Planner Ward noted that this item is on the agenda to correct an oversight. They have been talking about historic residential low-density nightly rentals. There are three subzones: 1) the Western HRL area where last year the City Council established a cap for these nightly rental CUPs; 2) the McHenry HRL Area where in 2015 the residents petitioned for an LMC amendment to prohibit nightly rentals; 3) the Lower Rossi Hill area being discussed this evening, which was recently rezoned in 2017. Planner Ward stated that there are three historic properties along Rossi Hill Drive. In 2017 the City Council rezoned this area in part to protect those historic structures. It was initially Residential Medium density and now it is Historic Residential Low density. She noted that previously there could have been duplexes and triplexes. When the transition to density was reduced, the minimum lot size was extended. When this zoning amendment went through the Staff report represented to the Planning Commission and the City Council that nightly rentals would be a conditional use permit, which was the understanding when the property owner worked with the City to downzone the property.

Planner Ward reported that in 2020 the City Council approved a five-lot plat for single-family dwellings. She pointed to the historic homes with two single-family lots below. Planner Ward noted that these were the only properties impacted by the amendment. To the west is land owned by the City and BLM.

Planner Ward presented a map showing the area that was previously residential medium. She pointed out that it is surrounded by other properties that are residential medium and residential development where nightly rentals are allowed. Planner Ward stated that by requiring a conditional use permit for each nightly rental, the public has an opportunity to come before the Planning Commission and weigh in on these proposals, and it allows conditions of approval to mitigate any impacts that might need mitigation. The Code would require that vehicles be limited to the number of onsite parking spaces, and that property management contact information be displayed.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to amend the footnote to establish nightly rentals as a conditional use permit to correct the 2017 oversight.

Commissioner Kenworthy remarked that as he has stated in previous meetings regarding this nightly rental issue, he leans towards protecting the primary neighborhood that surrounds this property for the reasons previously stated. Commissioner Kenworthy asked City Attorney Harrington to help with the legal issue of correcting a mistake.

City Attorney Harrington stated that the Planning Commission was making a legislative recommendation to the City Council and it needs to be made in the context of the welfare powers they have consistent with the General Plan and zoning, enabling legislation of the State. Mr. Harrington noted the facts before the Planning Commission show that there was a misrepresentation in a prior Staff report that resulted in a specific decision. Mr. Harrington stated that the Commissioners needed to consider how they would have assessed the situation and made their recommendation if the report had been written correctly. If they make the assessment consistent with that line of thought and reach a different conclusion, they will need new reasons for articulating their basis for doing that. At the same time, there is a fairness issue because different people may have attended the public hearing at that time had they realized that was occurring. Mr. Harrington asked the Planning Commission to keep all that in mind as they forward their recommendation.

Chair Phillips opened the public hearing.

Mary Wintzer raised her hand on Zoom and was unmuted to make comments.

Mary Wintzer, a resident at 320 McHenry Street, stated that she lives in the neighborhood that was able to get their section designated no nightly rentals. Ms. Wintzer did not want to mess up the developer of Lower Rossi Hill since it was just an error in how it was laid out. However, she stated during the last snowstorm on two different occasions different vehicles were parked on the Rossi Hill Road on those new places. The fallout for the neighbors or anyone on Ontario taking the safer way down rather than Thrill Hill, is that when that happens the road gets narrow. If the plow cannot plow the full width it goes down to less than two cars being able to pass. Ms. Wintzer assumed it was an enforcement issue, but when Matt Cassell was at the Engineering Department, they were all told that that side of the street would be posted no parking, but there are no, no parking signs there. Ms. Wintzer stated that if someone is doing a nightly rental and they park there, the neighbors have no recourse if they call the police because there are no posted signs. She wanted that in the record as something that needs to be done.

Commissioner Suesser noted that the Staff briefly talked about the change from a hang tag to a registered licensed plate of nightly rental owners. She asked if that also

captures the vehicles of those in the nightly rentals. Since they are giving attention to the Lower Rossi Hill area she asked if proper signage has been put in place regarding on-street parking.

Planner Ward offered to confirm with the Engineering Department the signage that is on the street in that area. She clarified that the parking for nightly rentals would require a seven-day lodging permit to park in residential areas that require the permit. For vehicles parked in this particular zone that were not on site, the software program would not capture those violations. They would be ticketed as vehicles are usually ticketed. Planner Ward stated that one of the conditions of approval required under this Code is what the Planning Commission put into place for nightly rentals that were recently approved, which includes the lease agreement and that the business license be reliant on restrictions. The number of vehicles allowed per nightly rental is based on the number of parking spaces on site.

Commissioner Kenworthy asked how the tracking process that Planner Ward mentioned earlier would work. Planner Ward explained that the tracking process would come into play in areas within the City that require a residential permit to park on the street. For areas that do not require a residential parking permit, those parking mitigations are in the conditions of approval that parking be on site. If cars are parked on the street without a permit, community members can go to the online complaint form and file a complaint. Tickets would be issued for those vehicles specifically; and not necessarily tied to nightly rentals in those circumstances.

Frank Watanabe raised his hand on Zoom and was unmuted to make comments.

Frank Watanabe, a resident on Ontario Avenue, stated that he was in the process of moving up the hill from these properties on Coalition. He is a developer along with his partner of the Lower Rossi. Mr. Watanabe remarked that Ms. Wintzer is right about people parking in front of these historic properties all the time. He noted that people live in those cabins, and two of the cabins are condemned. Mr. Watanabe supported restricting or eliminating parking in front of those cabins because it is not consistent with the historic nature of the cabins. He pointed out that people park off the street on the BLM land to the west all the time. Mr. Watanabe would be supportive of the Planning Commission and the City Council further restricting street parking in this area. He stated that it has nothing to do with their nightly rentals because as Planner Ward mentioned, a condition of approval would put parking limitations on them, which he completely agreed with. Mr. Watanabe stated that the prior owner, Dick Dennis, passed away. However, before that Mr. Dennis was very clear that he would not have agreed to this downzoning if it had been communicated that there were no nightly rentals. That was what was communicated to the City Council and a matter of public

record. It was also a matter of public record when he purchased the property from Mr. Dennis. He only found out that there was a clerical error when he went in to apply for their plat. Mr. Watanabe felt strongly that there is an equity issue. It was voted on by City Council that there were nightly rentals in this area contingent on a CUP. The only thing the Planning Commission was being asked to do is correct the fact pattern as to what was voted on by the City Council.

Mary Wintzer stated that they have all dealt with the cars that Mr. Watanabe was talking about on the lower part. She clarified that the area she was specifically talking about that needs to be signed is right outside the driveways of the new units Mr. Watanabe built up above the hairpin curve. She questioned why someone would not pull into the driveway unless they were afraid or there was no room in the garage. Ms. Wintzer stated that the neighbors would request signage not only on the lower part, but also above the hairpin on Rossi Hill because the cars do not use the driveway. If they sign that area, they have some recourse if the neighbors call the police.

Chair Phillips closed the public hearing.

Chair Phillips agreed with the importance of getting good signage on those roads.

Commissioner Suesser agreed with Ms. Wintzer's comment that the parking on the upper part in front of the new units is dangerous and problematic and should not occur. However, she believed the lower part around the lower side of that drive is overflow parking for a number of residents in that area. People are accustomed to parking there and unless it is causing a dangerous condition, she thought overflow parking in that area should continue. Commissioner Suesser anticipated backlash from the neighbors in that community if that overflow parking is eliminated. If it is not creating a dangerous condition, she was in favor of allowing that parking to continue, and she did not think it should be restricted.

Commissioner Thimm asked if the parking requirements and lack of signage was part of what the Planning Commission was considering this evening. Chair Phillips thought it was associated because it is in the same area, but he did not think it was directly tied to their decision.

Commissioner Suesser stated that since the Planning Commission was considering permitting nightly rentals in the new units, and if there has already been a parking problem with those units, she thought that the parking issues should be addressed.

Commissioner Thimm thought parking was already addressed in the ordinance. Commissioner Van Dine pointed out that each unit would come to the Planning Commission for a CUP and parking could be addressed at that time.

Chair Phillips asked Planner Ward to summarize the discussion when the Commissioners previously reviewed this item. Planner Ward stated that in July the Planning Commission recommended that the City Council conduct a work session on nightly rentals. The City Council planned to have a that work session, but it had not yet been scheduled. In September the Planning Commission suggested delaying a decision until after the work session was conducted. Chair Phillips understood that the work session was not tied directly to this item, but it was all related to nightly rentals.

Chair Phillips stated that he always held the position that a mistake was made because the intent from the discussions at that time was to allow nightly rentals. Chair Phillips thought this process was beneficial to the community because over the last two year the City has made great strides in mitigating the impacts of nightly rentals on an individual basis and also a City-wide policy basis. Chair Phillips agreed with all the recommendations that were discussed by the City Council on how to mitigate the impacts. He expected to continue these discussions as the nightly rental market continues to evolve.

Chair Phillips stated that he was in favor of forwarding a positive recommendation to the City Council on fixing the mistake that was made. Commissioners Thimm and Suesser concurred.

Commissioner Kenworthy stated that he was leaning towards fixing the mistake that took place in the past in allowing for nightly rentals. He understood that one of the conditions is to display the name of the property management inside the homes. Commissioner Kenworthy thought that information should also be available on the website. If someone who does not want to make a police report could at least contact the owner or property manager as a good neighbor before taking it to the police.

Planner Ward stated that the Economic Development Department was overseeing the third-party work that will be done in 2021 and that is something being considered. If not, all licensed nightly rentals have a responsible party and that is also being looked into. Commissioner Kenworthy asked if that would be a condition with each CUP. Planner Ward stated that it is not in place at this point, but they could look into it at the time of a CUP application.

City Attorney Harrington remarked that those types of regulations are addressed in the nightly rental business license section. The problem is making sure the City retains the

authority because the State limits the ability to use online advertisements for enforcement purposes. Mr. Harrington pointed out that if they add a condition regarding something online, they would not be able to enforce it.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the amendment to correct a 2017 Staff oversight and allow nightly rentals as a conditional use in the Lower Rossi Hill Historic Residential Low-Density area for their consideration on February 4, 2021. Commissioner Van Dine seconded the motion.

VOTE: The motion passed unanimously.

5.E 89 King Road – A Conditional Use Permit (CUP) Application for a Nightly Rental CUP for a 5-Bedroom Home in the Historic Residential – Low Density (HRL). (Application PL-20-04573)

Planner Conboy reviewed the application for a nightly rental conditional use permit. He noted that there are different areas that are zoned Historic Residential Low. This application is in the Western Historic Residential Low-Density zone, which is King Road, Ridge Road, and Sampson.

Planner Conboy stated that in July 2020, the City Council established a cap in this area of 12 nightly rentals in the Western HRL area. There are currently 7 nightly rentals issued for the Western HRL. He clarified that the application listed 9, which was a mistake. According to the Finance Department there is currently one active business license within the HRL boundaries, and six active licenses total in the surrounding area. Planner Conboy noted that this area in the HR1 does not require a CUP.

Planner Conboy stated that 89 King Road is a recently constructed home built in 2020. It is five bedrooms and seven bathrooms and 4,059 square feet. The plat was recorded in 2018 and it includes a 10' snow storage easement on the front. There is a 10' setback to the garage doors, and as a result the Staff added a condition of approval that limits parking onsite to the two garage spaces and requires the vehicles to park within those spaces. There is no tandem parking within this area.

Planner Conboy commented on the conditions of approval regarding traffic considerations that were developed for this area, as outlined in the Staff report. He noted that the lease agreement must inform the applicant that there may be times when it is snowy and they will need to park their vehicle offsite in a public parking lot and walk to the property. All wheel drive vehicles are required during the winter months. Planner Conboy commented on additional traffic considerations and pedestrian circulation as a

requirement of the CUP criteria. Condition #10 requires that the applicant provide renters with detailed information regarding walkable access to skiing, Main Street, Old Town, etc., as well as free transit service. Planner Conboy commented on additional conditions in the Staff report that were intended to help mitigate impacts on the neighborhood.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the conditional use permit based upon the findings of fact, conclusions of law, and conditions of approval found in the Staff report.

Julie Ponder, the applicant, was available to answer questions. She thought Planner Conboy had done a good job presenting her application.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

Commissioner Suesser asked if there was a cap on the number of nightly rentals along King Road. Planner Conboy stated that there are currently seven nightly rentals in the Western HRL. This application and the following application would bring the number to 9 nightly rentals. The cap is 12.

Chair Phillips clarified that the cap on nightly rentals is for the zone and not specifically King Road, but they all access from King Road.

Commissioner Suesser asked Planner Conboy to define the perimeters of the zone that 89 King Road and 162 Ridge Avenue fall under. Planner Conboy pointed to Lower Rossi Hill, the McHenry HRL area that prohibits nightly rental, and the Western HRL, which is the upper portion of King Road, Ridge Avenue, and Sampson. It also includes the western side of Norfolk to the intersection of Sampson.

Commissioner Suesser stated that since they limit the number of nightly rentals, she asked if it made sense to understand where the other nightly rentals approved in this zone were located; or whether they were just putting a cap on it and not worry about the location, even if the nightly rentals are right next to each other. She understood this application would be #8 in the zone. Planner Conboy recalled that the application for 158 Ridge included a map of the existing nightly rentals.

Chair Phillips had the same concern. He thought they appeared to be concentrated in this area.

Commissioner Thimm pointed out that as written, the Code does not differentiate between clusters. It appears to be just for the whole district in terms of quantity.

Chair Phillips was curious about how they conditioned the nightly rental on 85 King Road which is downhill from 89 King Road and very similar. Chair Phillips noted that the Planning Commission has the ability to add specific conditions to each nightly rental, which is why they come through as a CUP. He asked Planner Conboy to make sure that whatever they condition on 89 King Road is in alignment with the 85 King Road conditions.

Planner Conboy recalled that a lot of the conditions were based off of 81 King Road. It was a more recent application and they codified some of those conditions relating to off street parking requirements, noticing, walkability, transit, and things of that nature. Commissioner Suesser cautioned against conforming this application with 85 King Road without first looking at those conditions. She was more comfortable conforming to a more recent application because the Planning Commission is getting better at conditioning nightly rentals.

Commissioner Kenworthy stated that he lives nearby, and as indicated in the Staff report, it is a very steep and narrow street and cars slide regularly in the winter. There are no sidewalks and walkability is very difficult. He understood there is parking at the end of Main Street that can be used when the spaces are not accessible, but he it is a steep and dangerous street. Commissioner Kenworthy remarked that there is a reason why previous Planning Commissions carved out this zone, and it mostly had to do with the terrain, snow shed areas, and the traffic. To put three or four nightly rentals in close proximity along that street creates safety concerns.

Commissioner Suesser asked Planner Conboy to explain the parking and the snow storage. She recalled that it is a five-bedroom house with 2 parking spots. She asked if the parking spots are covered. Planner Conboy replied that there are two garage spaces. He stated that the main concern is that there is a 10-foot snow storage easement that occupies the entire driveway to access the garage. There is a 10-foot setback from the house to the street. It is not an area where they would want cars to park because of that snow storage easement. The requirement of the condition of approval limits this nightly rental to two parking spaces, and the vehicles must be parked within the garage itself.

Commissioner Thimm asked if it was customary to have a snow storage area be the entire driveway. He questions how cars would get into the garage if snow is stored in the driveway. Commissioner Thimm suggested adding a condition of approval that requires snow removal elsewhere, so the driveway remains operational.

Ms. Ponder asked if the snow storage easement means the City can plow snow into her driveway. She paid to have radiant heat and presumably snow in her driveway will melt, but it will not melt a 10-foot pile. Ms. Ponder stated that she enjoyed the last two weeks with her family, and they did have two cars in her driveway without any issue because that is how everyone parks on King Road. She stated that having four cars may not be legal or acceptable from a rental perspective, but the two cars in the driveway were fully off the road. There were two cars in the garage and two on the driveway without a problem.

Commissioner Suesser asked Planner Conboy to clarify the snow storage easement conditions. Planner Conboy stated that the intent is to not have cars out in that area in the event of a snowstorm that requires plowing King Road. He noted that the conditions of approval are intended to try to mitigate the impacts of short-term rentals on the neighborhood. It was a conscious effort to address that issue by limiting parking to garage spaces only.

Chair Phillips stated that his house is four or five houses away from this one and there will be some winters when the snowplows cannot choose where to pile the snow. When Park City has an epic storm that driveway could have 6 or 7 feet of snow on top of the radiant. He thought it was important to plan for those situations. Chair Phillips remarked that they cannot tell the plowers where to put the snow because they run out of places on these narrow streets. Chair Phillips believed that at this point all they could do was limit the parking to the two legal spots in the garage.

Ms. Ponder was comfortable with that approach. Her ideal rental would be extended families. If there are two cars with families with children, they could all park in the garage. If there is a need to park on the driveway, she has a professional property management company who can take care of it if there is an epic storm.

Chair Phillips stated that knowing the road and the situation on this particular application, he asked if the applicant would be open to minimum signage stating that parking on the driveway is prohibited and all vehicles must be parked in the garage. Ms. Ponder was not opposed to that suggestion. She felt that anyone who pays to rent a house with a covered garage would not want to dig out their car.

Commissioner Suesser pointed out that the parking is already restricted to the garage with the conditions of the CUP. Chair Phillips clarified that he was suggesting signage to make sure the renters are aware. He assumed it would be in the rental agreement, but if only one person signed the rental agreement it would alert everyone else coming to stay. Commissioner Suesser thought it was the responsibility of the owner to enforce the terms of the lease.

Commissioner Suesser stated that she had not meant to interrupt any discussion that Commission Kenworthy wanted to have on the issue of rentals in close proximity. Commissioner Kenworthy stated that the real danger issue is right above Woodside going up King Road where Norfolk comes in. That section of road can be very icy, and cars slide. It is a dangerous situation. The Code indicates that the area is walkable to PCMR, which it is with the staircases, but King Road is not walkable. It is not a safe place to put four nightly rentals in a row on King Road.

Chair Phillips stated that this was the only the place in Old Town where they limited the number of units in a certain area, and they did it because it is difficult. Separate from this application, Chair Phillips thought the City should look at the entire Norfolk stretch in the future because the same reasoning should apply to the remainder of Upper Norfolk. For this application, Chair Phillips thought the Planning Commission could approve it as proposed. Commissioner Suesser agreed.

MOTION: Commissioner Suesser moved to APPROVE the conditional use permit application for a nightly rental CUP for 89 King Road, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the Staff report. Commissioner Van Dine seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 89 King Road

1. The property is located at 89 King Road, Summit County in the Historic Residential-Low Density (HRL) District.
2. 89 King Road is a five-bedroom/seven-bathroom Single-Family Dwelling that is located on a 0.11-acre parcel.
3. 89 King Road is within walking distance to Park City Mountain Resort skiing and to Park City's free public transit.
4. The five-bedroom/seven-bathroom Single-Family Dwelling at 89 King Road is located within the area designated for Nightly Rentals in the HRL District, subject to a Conditional Use Permit.
5. On June 25, 2020, the owner of 89 King Road submitted an application to

request Commission review and approve a Nightly Rental Conditional Use Permit.

6. There are currently nine (9) Nightly Rental Conditional Use Permits in the western HRL District. The Commission may approve up to twelve Nightly Rental Conditional Use Permits for Nightly Rentals in the western HRL Zoning District.

7. In addition to a Nightly Rental Conditional Use Permit, the owner must secure a Nightly Rental Business License to use the property as a Nightly Rental. The business license application process requires that the Building Department inspect the property to ensure that the property meets all applicable building and fire codes.

8. 89 King Road is a five-bedroom house on a 0.11 acre site located within the potential Nightly Rental Conditional Use Permit zone and there are no unmitigated impacts from the site size and location.

9. King Road is a narrow and steep street and lease rental occupancy shall only allow two vehicles associated with a Nightly Rental on this lot. All nightly rental occupant parking shall be contained in the two-car garage or off-site public parking garage. This portion of King Road is steep and all-wheel drive vehicles are required during winter months.

10. 89 King Road is approved as a private residence and use of the property as a Nightly Rental will not change utility capacity and storm water run-off.

11. A Nightly Rental Conditional Use Permit will not alter the required emergency vehicle access.

12. During weather-related road conditions, access to 89 King Road may be limited and renters may need to find parking off-site to walk to the property. Leases shall contain information on available municipal parking and all-wheel drive vehicles shall be required during winter months.

13. No fencing or landscaping changes are proposed at this time.

14. The building mass, bulk, orientation, and location will remain unchanged.

15. No signs or additional lighting are proposed to be installed.

16. No changes to the physical design of the house or site are proposed.

17. No noise, vibration, odors, steam, or mechanical factors that might affect people and property are anticipated.

18. No deliveries beyond what are reasonably expected for a Single Family Dwelling are anticipated. Residential trash pickup for the property will be from King Road and subject to the Municipal Code of Park City § 6-1-11.

19. The property will be maintained by a professional property management company.

20. Use of 89 King Road as a Nightly Rental is in keeping with Objective 7C of Goal 7 to focus future nightly rental units to resort neighborhoods – near Park City Mountain Resort and Deer Valley. 89 King Road is within a walkable distance to Park City Mountain Resort with access through Upper Norfolk Avenue.

Conclusions of Law – 89 King Road

1. The proposed application as conditioned complies with the requirements of the Land Management Code.
2. The proposed Nightly Rental is compatible with surrounding structures in use, scale, mass, and circulation.
3. The proposed nightly rental use is consistent with the Park City General Plan.
4. The effects in difference in use or scale of the Nightly Rental have been mitigated through careful planning and Conditions of Approval.

Conditions of Approval – 89 King Road

1. The applicant must obtain and maintain a valid Nightly Rental Business License.
2. Compliance with all building and fire code standards is required as a condition precedent to issuance of a Nightly Rental Business License.
3. All existing and any new exterior lighting shall conform to the City's lighting requirements prior to the issuance of a Nightly Rental Business License.
4. No exterior commercial signs are approved as part of this Nightly Rental Conditional Use Permit. Any future signs on the property shall be subject to the Park City Sign Code.
5. This Nightly Rental Conditional Use Permit is approved for the five bedroom/seven-bathroom Single-Family Dwelling. Any additions to the Structure that enlarge the Structure terminate this Conditional Use Permit and require a new Conditional Use Permit that reflects the altered size of the Single-Family Dwelling.
6. All lease agreements for Nightly Rental shall include language that limits the vehicles allowed at 89 King Road to two (2) vehicles that must utilize on-site garage parking. No tandem parking in the driveway and no parking in the surrounding residential neighborhood by the rental occupants is permitted.
7. The property owner or a Property Management Company shall place trash receptacles for trash pickup according to the Municipal Code of Park City § 6-1-11, which requires that trash receptacles cannot be set out for collection prior to 6:00 PM of the day before collection. All trash receptacles in the HRL District must be removed from the street as soon as practical after being emptied, and in every case must be removed from the street prior to 11:50 PM the day they are emptied.
8. Property management contact information shall be displayed in a prominent location inside the Nightly Rental.
9. All lease agreements for Nightly Rental shall include language indicating that during heavy snowfall or bad road conditions, access to the property may be

limited and a list of municipal garages shall be provided. There may be times when renters need to park off-site in a public parking lot and walk to the property, and all-wheel drive vehicles are required during winter months.

10. The applicant must provide renters with detailed information regarding walkable access to skiing, to Park City's Historic Main Street, to Old Town, to Park City's free transit service and to Park City Municipal Garages.

11. Nightly Rental of 89 King Road prohibits Commercial Uses such as hospitality houses, screening rooms, reception centers, etc.

12. The property owner or a professional property management company shall oversee the property and shall maintain the property and landscaping in a manner that shall comply with all City Code and Land Management Code standards.

5F. 162 Ridge Avenue – A Conditional Use Permit (CUP) Application for a Nightly Rental CUP for a 3-Bedroom Home in the Historic Residential – Low Density Zone (HRL). (Application PL-20-04679)

Planner Conboy reviewed the application for a nightly rental in the Western Historic Residential Low-Density Zone. This home is directly behind 89 King Road. This would be #9 of the 12 nightly rentals allowed in the zone. The home was built in 2018. It is a 3,030 square foot single-family home, three bedrooms, three baths.

Planner Conboy presented the plat for the King Ridge Estates Subdivision. The subject property is Lot 2. He indicated a private common driveway and fire access road for Ridge Avenue. The Staff added conditions of approval to limit parking to the garage and the driveway space. No parking will be allowed on Ridge Avenue.

Planner Conboy stated that Parcel A was dedicated to Park City when the King Ridge Estates Subdivision Plat was recorded. The Engineering Department determined that due to the turning radius requirements, snow storage, and fire access, no parking would be allowed on Parcel A or Ridge Avenue in this area.

Planner Conboy noted that the single-car garage was platted as a parking space in the driveway. It is a tandem space, one in front of the other. A condition of approval limits no more than two vehicles. One must be parked in the garage and one must be parked in the driveway. The other two requirements were codified in conditions of approval regarding Ridge Avenue and the platted unbuilt drive. Planner Conboy remarked that the conditions for 162 Ridge are consistent with the conditions for 158 Ridge Avenue, which is the neighbor next door.

Planner Conboy stated that the conditions regarding traffic and pedestrians are the same conditions that applied to 89 King Road. The conditions are also the same for trash pickup and recycling, commercial uses, and landscaping required for mitigating impacts on the neighborhood.

The Staff recommended that the Planning Commission conduct a public hearing and consider approve the conditional use permit for a nightly rental at 162 Ridge Avenue.

Marc Ozarski, the applicant, stated that he generally agreed with the Staff report and was available to answer questions.

Chair Phillips thought most of their discussion on 89 King Road applied to this application.

Commissioner Suesser asked if once the Planning Commission approves these CUPs as conditioned whether they are registered with the business license and connected to the City database of nightly rentals with the complaint forms and property management information.

City Attorney Mark Harrington explained that each owner is responsible for separately doing their annual business license which has those requirements. If they do not renew each year, they could lose their CUP status, particularly if the ordinance changes. Mr. Harrington clarified that it is not automatic. The responsibility falls to the owner. Commissioner Suesser stated that if they condition a nightly rental on not permitting cars being parked in the driveway, are the neighbors aware of that condition. For example, if there is a parking problem, would a neighbor be able to confirm the conditions of approval for parking by looking it up in the City database. Mr. Harrington did not believe that level of detail was available at this point. A neighbor could request a copy of the CUP conditions, but he was unsure whether it would be available online. Commissioner Suesser understood that if there were a series of complaints the conditions would be looked up. Mr. Harrington answered yes.

Chair Phillips opened the public hearing.

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

Chair Phillips closed the public hearing.

Mr. Ozarski stated that he learned how the area was developed when he was doing his due diligence in connection with the acquisition of the property. He noted that throughout a lot of Old Town the sidewalks are essentially staircases. He was unsure

how those came about over time, but to the extent there was an opportunity to add such a staircase from the end of Ridge Avenue down to the King Road, he wanted to know the process for looking into it further. Chair Phillips recommended that Mr. Ozarski discuss that option with the Staff.

City Attorney Harrington stated that Heinrich Deters in the Trails Department was the best person to contact. Mr. Ozarski could also contact the City Engineer to request an enhanced level of service. There is a petition process where the neighbors can petition for a capital improvement program.

MOTION: Commissioner Van Dine moved to APPROVE the Conditional Use Permit for a nightly rental at 162 Ridge Avenue in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval as outlined in the Staff Report. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 162 Ridge Avenue

1. The property is located at 162 Ridge Avenue in the Historic Residential-Low Density (HRL) District.
2. 162 Ridge Avenue is a three-bedroom/three-bathroom Single-Family Dwelling that is located on a 0.135-acre parcel.
3. 162 Ridge Avenue is within walking distance to Park City Mountain Resort skiing and to Park City's free public transit.
4. The three-bedroom/three-bathroom Single-Family Dwelling at 162 Ridge Avenue is located within the area designated for Nightly Rentals in the HRL District, subject to a Conditional Use Permit.
5. On October 15, 2020, the owner of 162 Ridge Avenue submitted an application to request Commission review and approve a Nightly Rental Conditional Use Permit.
6. There are currently nine (7) Nightly Rental Conditional Use Permits in the western HRL District.
7. In addition to a Nightly Rental Conditional Use Permit, the owner must secure a Nightly Rental Business License to use the property as a Nightly Rental. The business license application process requires that the Building Department inspect the property to ensure that the property meets all applicable building and fire codes.
8. 162 Ridge Avenue is a three-bedroom/three-bathroom house on a 0.135 acre site located within the potential Nightly Rental Conditional Use Permit zone and there are no unmitigated impacts from the site size and location.

9. Ridge Avenue is a narrow and steep street and should only be accessed by two vehicles associated with a Nightly Rental on this lot. All parking shall be contained on site and there shall be no parking allowed on surrounding neighborhood streets. This portion of Ridge Avenue is steep and all-wheel drive vehicles are required during winter months.

10.162 Ridge Avenue is approved as a private residence and use of the property as a Nightly Rental will minimally change utility capacity and storm water run-off.

11.A Nightly Rental Conditional Use Permit will not alter the required emergency vehicle access.

12.During weather-related road conditions, access to 162 Ridge Avenue may be limited and renters may need to find parking off-site to walk to the property.

Leases shall contain information on available municipal parking and all-wheel drive vehicles shall be required during winter months.

13.No fencing or landscaping changes are proposed at this time.

14.The building mass, bulk, orientation, and location will remain unchanged.

15.No signs or additional lighting are proposed to be installed.

16.No changes to the physical design of the house or site are proposed.

17.No noise, vibration, odors, steam, or mechanical factors that might affect people and property are anticipated.

18.No deliveries beyond what are reasonably expected for a Single Family Dwelling are anticipated. Residential trash pickup for the property will be from Ridge Avenue and subject to the Municipal Code of Park City § 6-1-11.

19.The property will be maintained by a professional property management company.

20.162 Ridge Avenue is located outside of the Park City Soils Ordinance Zone.

21.Use of 162 Ridge Avenue as a Nightly Rental is in keeping with Objective 7C of Goal 7 to focus future nightly rental units to resort neighborhoods – near Park City Mountain Resort and Deer Valley. 162 Ridge Avenue is within a walkable distance to Park City Mountain Resort with access through Upper Norfolk Avenue.

Conclusions of Law – 162 Ridge Avenue

1. The proposed application as conditioned complies with the requirements of the Land Management Code.

2. The proposed Nightly Rental is compatible with surrounding structures in use, scale, mass, and circulation.

3. The proposed nightly rental use is consistent with the Park City General Plan.

4. The effects in difference in use or scale of the Nightly Rental have been mitigated through careful planning and Conditions of Approval.

Conditions of Approval – 162 Ridge Avenue

1. The applicant must obtain and maintain a valid Nightly Rental Business License.
2. Compliance with all building and fire code standards is required as a condition precedent to issuance of a Nightly Rental Business License.
3. All existing and any new exterior lighting shall conform to the City's lighting requirements prior to the issuance of a Nightly Rental Business License.
4. No exterior commercial signs are approved as part of this Nightly Rental Conditional Use Permit. Any future signs on the property shall be subject to the Park City Sign Code.
5. This Nightly Rental Conditional Use Permit is approved for the three bedroom/three-bathroom Single-Family Dwelling. Any additions to the Structure that enlarge the Structure terminate this Conditional Use Permit and require a new Conditional Use Permit that reflects the altered size of the Single-Family Dwelling.
6. All lease agreements for Nightly Rental shall include language that limits the vehicles allowed at 162 Ridge Avenue to two (2) vehicles that must utilize on-site parking in the one (1) garage space and one (1) on-site driveway space. No parking in the surrounding residential neighborhood is permitted.
7. Parking for nightly rental use on Ridge Avenue is prohibited.
8. Parking for nightly rental use on the private driveway on the platted, unbuilt Ridge Avenue right-of-way that provides access to 162 Ridge Avenue is prohibited.
9. All rental agreements shall include language indicating that all-wheel drive vehicles are required during the winter season.
10. Property management contact information shall be displayed in a prominent location inside the Nightly Rental
11. The property owner or a Property Management Company shall place trash receptacles for trash pickup according to the Municipal Code of Park City § 6-1-11, which requires that trash receptacles cannot be set out for collection prior to 6:00 PM of the day before collection. All trash receptacles in the HRL District must be removed from the street as soon as practical after being emptied, and in every case must be removed from the street prior to 11:50 PM the day they are emptied.
12. All lease agreements for Nightly Rental shall include language indicating that during heavy snowfall or bad road conditions, access to the property may be limited and a list of municipal garages shall be provided. There may be times when renters need to park off-site in a public parking lot and walk to the property, and all-wheel drive vehicles are recommended during winter months.
13. The applicant must provide renters with detailed information regarding walkable access to skiing, to Park City's Historic Main Street, to Old Town, to Park City's free transit service and to Park City Municipal Garages.

14. Nightly Rental of 162 Ridge Avenue prohibits Commercial Uses such as hospitality houses, screening rooms, reception centers, etc.

15. The property owner or a professional property management company shall oversee the property and shall maintain the property and landscaping in a manner that shall comply with all City Code and Land Management Code standards.

NOTE: The Planning Commission delayed further discussion on the Lighting Code Amendment until the end of the agenda to allow the Staff time to revise the conditions based on their direction.

5.C. Continued discussion from earlier in the meeting of the Land Management Code Amendment to Consider Updates to the City's Outdoor Lighting Regulations. (Application PL-20-04545)

Planner Jackson reviewed the revised language. Based on the comments the Staff had drafted suggested motion language.

Planner Jackson read the revisions as follows:

- Amend Redline 410 to restrict historic fixtures to historic sites.
- Amend Redline 421 for ridgeline areas to add a new subsection that the Planning Commission or Planning Staff may approve outdoor lights that exceed 12' above existing grade and may require additional shielding.
- Amend Redline 497-501 - "All outdoor legally existing and installed prior to the effective date of this outdoor lighting subsection, and which is not exempted, shall update lights to comply with the 3,000 degrees Kelvin requirement by December 31, 2024". "Add Subsection E to the compliance timeline. Property Owner shall not replace outdoor lighting with non-compliant fixtures".

Commissioner Suesser asked if the revisions capture the compliance for new projects and new construction going forward as of the effective date. Planner Ward replied that redline 495 states, "All outdoor lighting installed after the effective date of this outdoor lighting subsection shall conform". Redline 502 states, "Immediate compliance is required as a condition of approval for site improvements, construction, LEED construction, expansion, alterations". "If there is damaged or inoperative non-conforming lighting it will be replaced or repaired".

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation to the City Council for their consideration on January 21, 2021 for the Outdoor Lighting Amendments as amended. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission Meeting adjourned at 8:52 p.m.

Approved by Planning Commission: _____

APPROVED 01.27.2021