



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JANUARY 11, 2023**

COMMISSIONERS IN ATTENDANCE: Chair Laura Suesser (appeared virtually), John Kenworthy (appeared virtually), Vice Chair Sarah Hall, Bill Johnson, Christin Van Dine, John Frontero, Henry Sigg (appeared virtually)

EX OFFICIO: Gretchen Milliken, Planning Director; Rebecca Ward, Assistant Planning Director; Alexandra Ananth, Senior City Planner; Spencer Cawley, City Planner; City Engineer, John Robertson; Affordable Housing Project Manager, Rhoda Stauffer; City Planner, Lillian Zollinger; Jaron Ehlers, Planning Technician; Mark Harrington, City Attorney

1. ROLL CALL

Vice Chair Sarah Hall called the meeting to order at approximately 5:30 p.m. She reported that all Commissioners were present either remotely or in person.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from November 30, 2022

MOTION: Commissioner Johnson moved to APPROVE the Planning Commission Meeting Minutes from November 30, 2022. Commissioner Christin Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

B. Consideration to Approve Planning Commission Meeting Minutes from December 14, 2022

MOTION: Commissioner Johnson moved to APPROVE the Planning Commission Meeting Minutes from December 14, 2022. Commissioner Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

3. PUBLIC COMMUNICATIONS

There were no public communications.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Planning Director, Gretchen Milliken, reported that a Special Meeting would be held on January 18, 2023, for review of the Snow Park Base Area application. The meeting would be focused on the Circulation, Transportation and Parking Plan, and would be a continuation of the Work Session held on December 19, 2022. The Special Meeting would be held in the Council Chambers and additional seating would be set up to accommodate public input and involvement. There would also be overflow options if the Council Chambers could not fit all attendees. Director Milliken also stated that a Work Session on the Land Management Code ("LMC") Amendment priorities would take place on January 25, 2023.

Commissioner Van Dine sought clarification that there were three Special Meeting Work Sessions scheduled for the Deer Park applications that started in December 2022 and included January and February 2023. She understood that there would be a fourth meeting in March 2023 on the Regular Agenda where the Commission would make a recommendation on the right-of-way to the City Council. Director Milliken understood that they scheduled three Special Meetings in 2023 in addition to the December 2022 Special Meeting. Currently, the January Special Meeting was scheduled as a Work Session, and depending on how it moves forward, they would determine when the application would be placed on the Regular Agenda.

Senior City Attorney, Mark Harrington added that the Commission could forward a recommendation at any time deemed appropriate. He explained that the Special Meetings were scheduled to facilitate a review of the project as a whole and they will take it one meeting at a time.

Director Milliken clarified that the Commission is currently reviewing the modification to the Master Planned Development ("MPD") that will eventually be an action item as well as the vacation of right-of-way ("ROW") for recommendation to the City Council for action. She added that if the Commission is comfortable with the Circulation Plan and wants to send it to City Council for review, that could be done at any time.

Commissioner Kenworthy asked if the January 18 meeting would only address the vacation of the right-of-way, or if it would also include modification of the MPD. Director Milliken stated that the meeting on January 18 will address modification of the MPD so the Commission would primarily review the Circulation, Transportation and Parking Plan, of which the ROW vacation was a component since the Plan is based on the ROW vacation. Commissioner Kenworthy did not want to go so far down the path and then six months later recommend approval of vacation of the ROW. He mentioned that Staff was stressed with time and the vacation of the ROW was a single item within the jurisdiction of the City Council. He stated that if the Commission was not going to be discussing the vacation of the ROW beyond January 18, he would look forward to moving it to City Council sooner rather than going through the modification of the MPD. Mr. Harrington felt that they could have these discussions as part of the next meeting.

Chair Suesser reminded the Commissioners that part of the review of the MPD, which includes the vacation of the ROW, involves trying to arrive at the best plan with some of the trade-offs involved to have an overall package for the City Council to consider as part of their decision on whether to vacate the ROW.

Commissioner Johnson reported that he would be absent from the January 18 meeting but would listen to the recording.

Commissioner Sigg asked about the scope of the Transportation Plan being reviewed by the Commission. Mr. Harrington stated that the Commission previously requested additional information regarding the overall plan, which would be presented as part of the Staff response next week. Technically, the Commission was to review the Circulation Plan of the MPD Amendment. Commissioner Sigg understood that transportation and circulation on the Loop Road at Snow Park had nothing to do with Deer Valley Drive or the intersections at Bonanza Drive and Kearns Boulevard and others. Director Milliken confirmed that Commissioner Sigg's understanding was correct.

Mr. Harrington cautioned against drawing complete black-and-white lines and stated that how the vacation of ROW will affect the internal and external circulation might depend upon some of the lane reconfigurations. He noted that those impacts would be a question for the consultants or the applicant. He agreed that internal circulation was the primary focus, but the Commission was certainly able to ask questions about impacts on external circulation.

Commissioner Sigg asked if they should look at it from a macro sense because circulation at Snow Park would affect traffic in other parts of Park City. He felt it was difficult to look at it as a microcosm. Chair Suesser felt this discussion would be better had at the next Snow Park meeting.

Commissioner Kenworthy asked Mr. Harrington about the parking spaces on Thanes and wondered if they ever went through a Conditional Use Permit with the Planning Commission. Mr. Harrington responded that they had not. He added that the history was detailed in the reports that had gone before City Council, and there was a crossover between what was in the ROW and what was on City property. He added that City Council was still considering those options for a further application and depending on Council's direction, the City might either remove all of the parking, push the parking into the City ROW, or direct Staff to apply for the appropriate permits or processes.

Commissioner Kenworthy expressed concern that if the parking was not going to go on the ROW, then they would come back through the Planning Commission and there was no difference between a City-owned project and a City-owned component of a project. Mr. Harrington noted a third option of parking within the ROW and explained that the Planning Commission did not have jurisdiction over parking within the ROW and would not come before the Planning Commission. He added that this was unlikely given the geometry of the situation.

Commissioner Kenworthy mentioned that the Commission talked a lot about oversight and enforcement of nightly rentals and this was mentioned relative to what was occurring inside the parking lot. He felt this was critical to all the hours they put in when there is an agreement in place that might or might not have ongoing violations. He felt the oversight would be on the Parking Department, but oftentimes there was a failure in enforcement and oversight. Chair Suesser added that there had been a lot of angst raised over what is occurring in Thanes Canyon; however, based on the Parking Study there did seem to be some storage going on there that was not part of the Shared Parking Agreement. She agreed that enforcement of the Agreement should be the low-hanging fruit and everything that was being stored in the parking garage should be cleared out before any other City steps are taken. She felt that a lot of people were wondering why that was not being done.

Mr. Harrington stated that they could bring in appropriate Staff to provide an update to the Commission. He added that Council had delayed the discussion of the next steps, and he did not want to circumvent the intentional delay by having an ad hoc discussion by the Planning Commission. He added that from Staff's perspective, this was much different than a compliance issue. The informal parking lots for recreation often start in public ROWs and experience a bit of migration, and Staff was working through each facility as the demand increases to get the next round of approvals as necessary. He commented that Staff made this posture clear to the Council, and everyone was trying to be transparent on the options moving forward and the next steps that do not penalize the public that had been accessing public facilities. Mr. Harrington stated that it amounts to an incremental growth problem, and Staff was seeking direction from Council on how to best approach all of these locations.

Commissioner Johnson felt it would be good to hear about the off-site parking aspect of the Parking Study, and he had thought about the compliance issues raised by Commissioner Kenworthy. He felt they should look at the compliance. Mr. Harrington stressed that no one was disagreeing with these comments. Commissioner Johnson mentioned Snow Creek and whether the conditions complied with the original approval because it looks over parked. He had not heard anything about the Snow Creek Shopping Center and compliance with parking. Mr. Harrington commented that historically that had been allowed and was complicated by the City's facilitation of the relocation of the liquor store and coffee shop. He reiterated that they try to balance all those issues, but he was not aware of a compliance issue at Snow Creek in that it was designated for some of those overflow uses.

Commissioner Kenworthy wondered if the end goal was to have enforcement to see where these guidelines were being stretched, to be transparent, and to solve these issues on a comprehensive level. He opined that the ad hoc approach was what gets them in trouble with the community.

5. REGULAR AGENDA

A. 1301 Park Avenue – Plat Amendment – The Applicant Proposes Amending the 1301 Park Avenue Plat to Create Two Lots of Record and Petition to Vacate a Portion of the 13th Street Public Right-of-Way in the Historic Residential – Medium Density Zoning District. PL-22-05165.

City Planner, Spencer Cawley, reported that the applicant, the Knudson Family, was present as was City Engineer, John Robertson, to answer questions regarding the vacation of ROW and improvements. Planner Cawley explained that 1301 Park Avenue was adjacent to the Library Field just off Park Avenue and 13th Street. It is a metes-and-bounds lot that is currently just over 6,000 square feet in size. The lot contains two structures: a 1904 Landmark Historic Structure that is a duplex, and a 1964 A-frame non-historic Single-Family Dwelling. He presented images of the two structures on the site. The applicant seeks to subdivide the lots into two lots of record. They also seek to grant a 266-square-foot public access easement along Park Avenue that would include the sidewalk and the bike lane. The applicant also requested the City vacate a portion of the 13th Street Right-of-Way totaling 355 square feet. The applicant indicated that the vacation of ROW would assist with providing off-street parking for the Historic Structure and would allow the duplex to comply with the Minimum Lot Size requirements for the Zoning District.

Planner Cawley reported that in 2005, the applicant went through a similar process and the City Council Staff Report stated that the Historic Structure consisted of two dwelling units and was technically a duplex even though one of the units was only 410 square feet. He highlighted the fact that when Gary Knudson purchased the property in 1961, it was an existing duplex. The 1968 LMC permitted the use of a two-family dwelling or duplex, and the Minimum Lot Size for any of those uses was 3,000 square feet. Therefore, in 1968, the duplex complied with the then-governing LMC provisions. He stated that the Sanborn Fire Insurance Maps showed the Historic Structure changed its form between 1907 and 1929, and thereafter remained consistent from 1929 to 1941. They did not have any Sanborn Map records beyond 1941.

Planner Cawley explained that the definition of a Non-Complying Structure was one that legally existed before its current zoning designation and because of subsequent zoning changes does not conform to the zoning regulations in terms of setbacks, height restrictions, or other restrictions that govern the structure. The duplex was an allowed use at the time and met the Minimum Lot Size requirements. It is therefore considered a Non-Complying Structure. The Historic Residential – Medium (“HR-M”) Zoning District requirements provide for Minimum Lot Size for a Single-Family Dwelling and a duplex. The Minimum Lot Size for a Single-Family Dwelling is 1,875 square feet, and for a duplex is 3,750 square feet.

Planner Cawley stated that this Subdivision will create two lots. The non-historic A-frame would be on Lot 1, which would have 2,539 square feet and be in compliance. The Historic Structure, or duplex, would be on Lot 2, which would have 3,533 square feet, 217 square feet shy of compliance with the zoning requirements. He explained that the applicant's request to vacate the ROW would allow them to meet the Minimum Lot Size requirements. He reported that the Historic Structure was exempt from the Front, Rear, and Side Setback requirements; however, any additions to the Historic Structure or any changes to the A-frame structure would require compliance with the Setback requirements of the LMC at the time of construction. He stated that both structures currently comply with the building height of 27 feet for this zone. Any additions would need to comply as well.

Planner Cawley noted that the Historic Structure was exempt from the LMC parking requirements; however, Staff included a Condition of Approval stating that the A-frame structure on Lot 1 would be required to comply with parking, parking area, and driveway standards. This would require two off-street parking spaces.

Planner Cawley reported that the applicant's Petition to Vacate the Right-of-Way was governed by Resolution No. 8-98 and the City Council must find good cause to vacate the public ROW. He referenced the discussions during the last Work Session. The criteria for good cause include no increase in density; compatibility with the neighborhood; consideration or compensation for the loss of ROW; and no utility of the existing ROW would be lost through the vacation of ROW. He mentioned the Conditions of Approval tied to the vacation of ROW, which include that the Plat would require a 10-foot wide public snow storage easement along 13th Street, and both lots would be required to obtain Historic District Design Review (“HDDR”) approval prior to any construction.

Planner Cawley reported that Staff found good cause for the Subdivision. The character of the HR-M Zoning District was preserved in that the present land uses of the zoning district were retained. Additionally, it encouraged the preservation and rehabilitation of the Historic Structure. He added that development within the neighborhood provided a transition of use and scale between the resort and residential neighborhoods. He also noted that no public street was

vacated or amended by the Subdivision, and clarified that the application requested a vacation of the ROW in addition to the Subdivision. He noted that good cause was also met because no easement was vacated or amended. If the Subdivision were approved, the Development Review Committee would require Conditions of Approval at the Building Permit phase. He advised that the Snyderville Basin Water Reclamation District requested a sewer connection for the A-frame that would connect it to the main sewer lateral because it could not cross property lines. A water ejector pump might be required for any basement bathrooms.

Planner Cawley reported that the City Engineer stated that there are high water tables in this area, and further study might be required to identify permissible depths of any basements proposed for future development. He stated that the City Engineer reviewed this application and required an additional Condition of Approval that the applicant shall include on the Final Plat an irrevocable dedication of a public access easement, in a form approved by the City Attorney, adjacent to the 13th Street ROW. The City may accept the dedication in future active transportation improvements as they are made to the vacated portion of the 13th Street ROW.

Planner Cawley stated that Staff published a notice to the City's website, the Utah public notice website, and *The Park Record* on December 24, 2022. Notice was mailed to surrounding property owners and posted to the property on December 28, 2022. No public input had been received prior to publication of the Staff Report, and no comments were made at the previous Work Session. Staff recommended the Planning Commission review the 1301 Park Avenue Subdivision, hold a public hearing, and consider forwarding a positive recommendation for City Council's consideration on February 16, 2023, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as outlined in the Draft Ordinance.

Chair Suesser noted the City Engineer's requirement of a snow storage easement and sought clarification that it will be located on the north side of the 13th Street Right-of-Way between the applicant's property and the street. She asked how close a building could be constructed to the snow storage easement. Planner Cawley explained that any building would have to meet the Front Setback requirement of 15 feet for this zone. Chair Suesser observed that this would mean that from the ROW, there would be 10 feet for the easement, and then five feet before a house could be constructed. She looked at the 2005 Planning Staff's determination to allow the Subdivision and allow two Single-Family structures on these lots, and mentioned that Staff at that time required that the applicant seek a special exception to allow the duplex to remain on the property. She preferred that approach rather than recommending a ROW vacation because she was having difficulty finding good cause. She recalled the applicant's passionate plea that this property was purchased with the duplex and they wanted the duplex to remain; she would be agreeable with leaving the structure as a duplex and also wanted to preserve the Historic Structure.

Chair Suesser commented that granting the Subdivision and allowing the Historic Structure to remain and the A-frame to remain could get to a similar place without vacating the ROW. She reiterated that she did not find good cause for vacation of the ROW and did not know what benefit the City would receive in return. She felt that the fact that the Historic Structure encroached into the Park Avenue sidewalk, and that the applicant wanted to dedicate that to the City was not compensation because, for all intents and purposes, the City already owned it.

Chair Suesser agreed with the 2005 Planning Staff determination and felt it was a prudent way to move forward. She questioned whether there was any reason to diverge from that determination. Planner Cawley stated that in 2005, the options were to seek a variance from

the Board of Adjustment, have the Chief Building Official determine that the duplex was a Single-Family Dwelling and would therefore comply, or subdivide the lots in such a way that each lot met the Minimum Lot Size requirements. Chair Suesser felt they could subdivide the lot today with enough area for two Single-Family Homes; the problem was that the applicant wanted the duplex to remain. She reiterated that a special exception to allow the duplex to remain was a more efficient way to achieve the goal.

Mr. Harrington opined that they cannot grant a special exception without a variance to allow them to keep the proposed lot line in the same location. Chair Suesser referenced the 2005 Planning Staff determination that referenced a special exception or a variance. Mr. Harrington advised that special exception authority was removed from the State Code and was no longer available. He explained that the Planning Commission had exception authority for different Setbacks and other things in the City Code; however, the Commission did not have the broad special exception authority that used to be codified in the Board of Adjustment process separate from the variance.

Commissioner Hall asked about the legal, non-conforming structure and the process, assuming they approve the subdivision. She asked if there was a way for the Commission to determine the duplex to be a legal, non-conforming structure based on the fact that it was an allowed duplex at the time of construction. Mr. Harrington explained that it conforms as of today, and creating a new lot in which it does not conform would be a different degree of non-conformity. He felt it would be difficult to pronounce it that way, and advised that this item was brought as a Work Session to see if the Commission was comfortable with the vacation of ROW. He acknowledged that he was not fully prepared to look at additional options, but he could do so if requested; however, he felt it would be a stretch of the LMC prohibition of expansion of the degree of non-conformity because of the creation of a new lot. He added that ultimately the Commission could make a contrary interpretation, but he would have to look at that issue.

Chair Suesser commented that it was clear that they could grant the Subdivision and allow two Single-Family homes. Mr. Harrington noted that was not requested in the application, and the Commission was to react to what was sought in the application. He noted, however, that Chair Suesser's observation that there was sufficient area for two Single-Family lots was correct.

Commissioner Frontero noted that there appeared to be enough space currently, without the ROW, if the Subdivision was done slightly differently. If the current Subdivision proposal was moved slightly to the left or right, he felt there would be enough room to accomplish what the applicant requested without vacating the ROW.

Planner Cawley agreed that there would be a way to subdivide the lots where the Minimum Lot Requirements could be met without the vacation of ROW. Commissioner Frontero asked why they did not go down that path and wondered whether that discussion had occurred with the applicant. Planner Cawley recalled that there was such a discussion with previous Planners, but not with him.

Commissioner Frontero stated that they were talking about exceptions when he felt it was not necessary to give an exception or a variance. If the applicant re-worked the lot line such that they could meet the 3,750 square feet for a duplex, then they could also meet the 1,875 square feet required for the Single-Family Dwelling. Because of this, he agreed with Chair Suesser that there was no good cause for the vacation of the ROW.

Commissioner Hall asked to hear from the applicant in response to Commissioner Frontero's comments.

Commissioner Sigg's comments were largely inaudible. He referenced the City's right to create a sidewalk along the first five feet of any property, and if the land area is there and the applicant could meet the requirements, he would say there was good cause. Chair Suesser noted the difficulty in hearing Commissioner Sigg's comments. Commissioner Sigg felt that the preferred outcome would be a reconfiguration of the lot lines versus the vacation of property because the City can already put sidewalks and utilities within the first 5 – 10 feet of a deeded property; therefore, if it could be done with a configuration of the lot lines that would conform, that would be preferable. Commissioner Hall noted that Commissioner Sigg agreed with Commissioner Frontero's comments.

Commissioner Johnson referenced Condition of Approval 11 and asked Mr. Robertson if it related to future sidewalks within the snow storage. Mr. Robertson stated that this was precisely the intent behind this Condition of Approval. They wanted to preserve the opportunity that if and when a sidewalk was put in that location, they would have a place to put it. Rather than having a dedicated ROW, the City would have an easement.

With respect to the good cause, Commissioner Johnson asked Mr. Robertson what he saw as the community benefit of the ROW swap. Mr. Robertson stated that with the access easement, the City would essentially maintain the same ability to do the improvements. Commissioner Johnson noted that by vacating the public ROW on 13th Street, they were adding Condition of Approval 11 stating what would be required if the City wanted to install a sidewalk. He observed that if the City did not vacate the ROW, they could install a sidewalk right now.

Commissioner Van Dine noted that by moving the lot lines, the applicant would have difficulty meeting the Setback requirements. She also noted that the Lot Widths were tight, and would adjust the lot line would just make more non-conforming lots. Given this, she saw why the ROW made sense in simplifying the process of providing two regular-sized lots that follow the pattern of the neighborhood and do not contribute to more non-conformity.

Commissioner Kenworthy had a difficult time finding a conforming solution and did not think that the cookie-cutter rows were what Historic properties were looking for. He previously found good cause for several reasons. He mentioned parking and stated that the Code had taken away the parking for Historic Structures, so when they discuss equity and good cause, he would like the Commissioners to look at it that way.

The applicant, Gary Knudson, stated that when he purchased the property in 1961, it was one of the first duplexes in Park City. Chair Suesser commented that the Commission seemed to be leaning towards granting the Subdivision and asking the applicant to consider reconfiguring the Subdivision lines so the applicant could maintain the duplex. She added that there was some reluctance to grant the ROW vacation when it appeared the applicant could achieve the goal of retaining the duplex and creating two lots without vacating the ROW. She asked Mr. Knudson to address that issue. Mr. Knudson reported that he had 7.5 lots by the resort that the City wanted. When he sold his properties to the City, he asked if the City would help him apply this extra square footage totaling 138-2/17 square feet, and they agreed. He stated they had been using that square footage and the applicant asked to incorporate that square footage to make it work. He did not feel it was asking too much given what he gave up. He felt that the

handshake back then meant something and the square footage had not hurt anyone over the years.

Chair Suesser explained that some of the concerns of the Commission were that they would be setting a precedent that the City would be willing to vacate a ROW when asked. There are reasons why the City holds onto the property, even if there is not a present need. She noted there could be a future need and there was concern about vacating it for a reason that does not amount to good cause when the applicant could achieve his goal of preserving the Historic Structure as a duplex in another way. Mr. Knudson did not feel it would hurt to incorporate that square footage and hoped the Commission honored the applicant's work as well as the work of the Planners.

The co-applicant, Susan Knudson, identified herself as Mr. Knudson's daughter and stated that they lived and were raised here and have been a part of the community for 50 to 60 years. Her father was a coach at the High School and her mother worked as a nurse for the Health Department. She asked that the handshake and verbal agreement between her father and the City be honored. She hoped the Commission would have compassion for her family, and noted that the family had endured issues with other properties without complaint.

Chair Suesser opened the public hearing. Mr. Knudson stated that the trade-off would be to help with the parking at the property. He commented that things work better if they all work together.

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

Chair Suesser assumed that Staff made an effort to run down the history of this application, including any promises made. She invited Planner Cawley to comment on his understanding or provide information regarding any definitive agreement that the City would provide the applicant with a vacation of ROW.

Planner Cawley referenced what was done in 2014, which involved property that is not the subject of this application. He stated there was no effort made to look into those approvals, although they exist and could be reviewed to see if there was any recorded agreement. With regards to this specific application, Staff looked at the prior applications that requested this same process and specifically looked at the 2005 Staff Reports. He stated there was no indication at that time because it had not yet occurred.

Conceptually, Commissioner Hall was agreeable with the Subdivision and with allowing the legal Non-Conforming Structure to exist. She felt the issue was what would be the best way to accomplish that. She referenced Condition of Approval 11 and asked Mr. Harrington to explain the implications of a ROW vacation with an irrevocable offer of dedication. She also asked if it would be limited to future active transportation improvements, or if it would allow for any transportation improvements.

Mr. Harrington stated that was how it was currently written in terms of transportation and street use, which is usually the use the City is limited to when it accepts a dedication in the first place. The City would reserve its right to get it back for those uses that the City Engineer could foresee, so there would be no net loss in future rights. He added that they had run into this a lot in Old Town where a ROW does not correspond to the platted ROW, and they have a prescriptive easement or they use it for a ROW expansion outside the old Historic plats. He

offered that there was a bit of a distinction without a difference because the City would still have the right to do what it needs to do, which is why some plats come in with an affirmative request to have a dedicated easement versus a dedicated ROW to preserve flexibility on these complicated lots. He felt this was the situation presented by this application, where some flexibility was being requested to facilitate the parking for the Single-Family home.

He explained that this was why Staff believed there was good cause enough to vacate, yet still preserve functionally the anticipated public uses. He felt this vehicle was better than the exception, as exceptions create different issues and the Code no longer affords blanket exceptions. A variance would present its challenges because of the rigidity of the State mandates. Mr. Harrington reiterated that in this scenario, Staff felt the swap was probably the more elegant way to achieve what was proposed cooperatively. It would ultimately be the Commission's decision to balance those complicated interests.

Commissioner Frontero raised the issue of parking and stated that it was possible that after this Subdivision, the A-frame could be demolished, and the lot sold to a developer to build a brand new home. He could not find good cause to give a City ROW to this application to have this happen on Lot 1. He felt this application could be accomplished consistent with his prior comments. He added that Lot 1 could be built with a new home, garage, and driveway. He was not convinced to recommend a positive recommendation on the ROW.

Commissioner Van Dine did not object to the 277 square feet and felt that trying to move the lot line when there was only one foot of space for the width of Lot 1 would not make the square footage compliant. She agreed that they could get creative and cut into the parcels, but she felt Commissioner Frontero's proposal would create more variances and problems. She felt that the City would retain its ability to do what it needs to do in the area, and had no problem with the ROW vacation in this location. In terms of setting a precedent, she stressed that the Commission still gets to decide on each application on a case-by-case basis going forward. Commissioner Van Dine felt there was good cause to make two compliant lots that follow the flow of the neighborhood. She also mentioned the equity of the City honoring its word. Even though they could not verify what the mayor told the applicant, she trusted this longtime citizen.

MOTION: Commissioner Van Dine moved to forward a POSITIVE recommendation for 1301 Park Avenue – Subdivision for City Council's consideration on February 16, 2023, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as outlined in the Draft Ordinance.

Commissioner Hall requested a modification to Condition of Approval 11 to state that the City may accept the dedication for any improvements required by the City, subject to City Attorney approval.

Commissioner Van Dine accepted that amendment to her motion, and reiterated her motion, as amended:

Findings of Fact

1. The property is located at 1301 Park Avenue.
2. The property is listed with Summit County as Parcel number SA-274.

3. The existing historic Structure at 1301 Park Avenue is listed as a “Landmark” on the Historic Sites Inventory.
4. On March 14, 2022, the Applicant petitioned Park City to vacate a portion of the 13th Street Right-of-Way.
5. On March 16, 2022, staff determined the application was complete.
6. The proposed Subdivision memorializes the petition to vacate a 355 square feet portion of the 13th Street Right-of-Way and the dedication of 266 square feet of public access easement for the existing sidewalk and bike lane along Park Avenue.
7. No easement is vacated or amended as a result of the plat amendment.
8. The property is in the Historic Residential – Medium Density (HRM) Zoning District.
9. LMC § 15-2.4-3 regulates HRM Lot and Site Requirements.
10. The Subdivision creates two Lots: Lot 1 contains a non-Historic A-Frame Single-family Dwelling; Lot 2 contains a Historic Landmark Structure currently designated as a Duplex.
11. A Single-Family Dwelling is an allowed Use in the HRM Zoning District and requires a Minimum Lot Size of 1,875 square feet. Lot 1 contains 2,539 square feet.
12. A Duplex is an allowed Use in the HRM Zoning District and requires a Minimum Lot Size of 3,750 square feet. Lot 2 contains 3,533 square feet.
13. The Applicant petitions the City to vacate 355 square feet of the 13th Street Right-of-Way. The Lot Area of Lot 1 will increase to 2,695 square feet and the Lot Area of Lot 2 will increase to 3,750 square feet.
14. Lot 1 and Lot 2 comply with the Minimum Lot Width.
15. The required Front Setback for Lot 1 and Lot 2 is 15 feet. Lot 1 is legal non-complying with a 12-foot setback. Lot 2 is exempt as a Historic Landmark Structure and contains two Front Setbacks, eight feet, and ten feet.
16. The required Rear Setback is ten feet. Lot 1 and Lot 2 comply with this requirement.
17. The required Side Setback is five feet. Lot 1 is legal non-complying with Side Setbacks of 4.7 feet and 11 feet. Lot 2 is exempt as a Historic Landmark Structure with a Side Setback of 2.7 feet.

18. The analysis section of the staff report is included herein.

Conclusions of Law

1. The Plat Amendment is consistent with the Park City Land Management Code, including LMC Chapter 15-2.4 Historic Residential-Medium Density ("HRM") Zoning District and LMC § 15-7.1-6 Final Subdivision Plat.
2. Neither the public nor any person will be materially injured by the proposed Subdivision.
3. Approval of the Subdivision, subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.
4. The Vacation of Right-of-Way is consistent with Resolution 8-98, Resolution Adopting a Policy Statement Regarding the Vacation of Public Right-of-Ways within Park City, Utah, and Utah State Code 10-9a-609, Petition to vacate a public street.

Conditions of Approval

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant shall record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The plat shall note that fire sprinklers are required for all new or renovation construction on Lot 1 and Lot 2, to be approved by the Chief Building Official.
4. The final plat shall show the approved vacation of Right-of-Way.
5. Any addition or new construction on Lot 1 requires the property owner to provide two off-street parking spaces pursuant to LMC § 15-3-6(A) and shall adhere to the Parking Area and Driveway standards in LMC § 15-13-8(B)(1)(h) and LMC Chapter 15-3.
6. Any additions or new construction on either Lot must comply with Building Setbacks, Building Footprint, driveway location standards, and Building Height.
7. A non-exclusive ten-foot (10') public snow storage easement on 13th Street and Park Avenue shall be dedicated on the plat.
8. The Applicant shall obtain HDDR approval prior to construction on either Lot.

9. A separate sewer connection from the A-Frame Structure to the main sewer lateral is required by Snyderville Basin Water Reclamation District.
10. High water tables are an issue in this area and the City Engineering Department requires further study to identify permissible depth if basement additions are proposed.
11. The Applicant shall include an irrevocable offer of dedication in a form approved by the City Attorney on the final plat granting a public access easement adjacent to the 13th Street Right-of-Way. The City may accept the dedication for any improvements required by the City, in a form subject to City Attorney approval.
12. City Engineer review and approval of all lot grading, utility installations, public improvements, and drainage plans for compliance with City standards is a condition precedent to building permit issuance.

Commissioner Kenworthy seconded the motion.

VOTE: Commissioner Sigg-Nay; Commissioner Frontero-Nay; Commissioner Johnson-Aye; Commissioner Hall-Aye; Commissioner Van Dine-Aye; Commissioner Kenworthy-Aye. The motion passed 4-to-2.

Commissioner Johnson commented that the compromise he referenced during his vote was that the City would still have the ability to build the sidewalk.

B. Moderate Income Housing Plan – The Planning Commission Will Review Minor Modifications to the City’s Moderate Income Housing Plan Element of the General Plan that Establishes Goals and Strategies to Incentivize Development of Affordable Housing in Order to Comply with Technical Requirements of the State

Affordable Housing Project Manager, Rhoda Stauffer reported that the above item involves a couple of technical changes to the Moderate-Income Housing Plan (“MIHP”) approved in August 2022. The State requires the MIHP to be updated annually, and following approval in August, it was submitted to the State in September. The State advised that the MIHP complied; however, they did not get priority consideration for transportation funding because they did not have sufficient strategies to qualify for that funding. Following discussions with the State, Staff made changes that the State advised would qualify the City for priority consideration. They were seeking the Planning Commission’s recommendation of approval to the City Council on January 24, 2023. She described the two changes made to the MIHP. First, there was a typo in Strategy U, which they corrected to reflect the State code required language verbatim. Second, for Strategy N, the State wanted more detail on the interim steps, which Staff added to that Strategy.

Commissioner Hall stated that she would move to make a positive recommendation after the public hearing.

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

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation for City Council's consideration on January 24, 2023 on the Moderate Income Housing element of the General Plan. Commissioner Johnson seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

C. Land Management Code Amendments – The Planning Commission Will Review Proposed Land Management Code Amendments to Clarify Landscaping and Water Wise Regulations, Define Key Terms, Update Gravel Regulations, Establish Landscaping Regulations Based on Land Use Type, Provide Flexibility to Replace Significant Vegetation with Water Wise and Firewise Landscaping, Update the Recommended Plant List to Identify Water Wise Plants, and Clarify Landscaping and Limits of Disturbance. PL-21-05064

City Planner, Lillian Zollinger reported on the Survey that closed in October 2022. It included 87 participants, of which 55% were highly concerned with the future of water in Park City. In terms of the biggest obstacles to water-conserving landscaping, 33% of respondents listed cost, 28% listed aesthetics, and 13% listed Homeowners Association ("HOAs") regulations. She also reported that 63% of respondents felt that reducing water usage should be prioritized over ecological health and saving Park City money. Planner Zollinger noted that 82% of respondents changed their irrigation habits during times of drought, and more than 62% were willing to change one of the following:

- Replacing lawn with water-wise landscaping;
- Installing water-wise irrigation;
- Replacing non-native vegetation with native water-wise vegetation; or
- Reducing outdoor water usage.

In addition, 65% of respondents were willing to replace lawn with Water Wise landscaping, and each respondent who was not willing to replace lawn with Water Wise landscaping was willing to replace it if provided with a rebate incentive. She added that 42% of respondents preferred a natural, native look to the landscape.

Planner Zollinger presented an overview of the proposed Landscaping updates, which are to align with House Bill 282. These updates must include Water Wise landscaping amendments and provisions that define key terms. She advised that they were also looking to organize and simplify the Landscaping Regulations so they could be easily understandable for the community, applicants, and Staff. They also proposed to identify Water Wise plants in the Municipal Code.

Planner Zollinger reported that Staff requested the Planning Commission provide input on these changes, hold a public hearing, and consider forwarding a positive recommendation for Council's consideration on February 16, 2023. She presented the proposed amendments and explained that the list of plants notated with a sign would be designated as Water Wise in the Municipal Code.

With regard to the LMC Amendments, she explained that everything in red represented the proposed changes. With regards to the Purpose statement, she advised that since the last meeting they met with some of the Fire Officials for input on better-incorporating firewise into the LMC as well. She pointed out that the inclusion of a new section entitled Water Wise Landscaping, and explained that this language was already within the LMC, however, they moved it. They also added Homeowner Association Landscaping Regulations, required by House Bill 282, wherein HOAs may not restrict a property owner from installing Water Wise Landscaping.

She reiterated that they reorganized much of the information already contained in the LMC to make it easier for Staff, the public, and the Commission. She highlighted the designation of Rocks and Gravel at 3 inches based on input from the Engineering team. She also noted the addition of language prohibiting Gravel in areas adjacent to the Right-of-Way. They also added "Rock-cover should be no more than 20% of new ground cover. Wood chip mulch is encouraged for water retention on the landscape."

Planner Zollinger referenced the language that refers to the Plant List in which they added some clarifying words as to why these are being implemented. She highlighted the reference to the Municipal Code provisions regarding the Wildland-Urban Interface Ignition Zones. An Immediate Ignition Zone was listed as 0 – 5 feet, and the Intermediate Ignition Zone was listed as 5 – 30 feet. She advised that most of Old Town would be covered in the Immediate Zone based on the lot dimensions. These Ignition Zones help delineate what vegetation needs to fall within the specific Zones to ensure that the house is protected from possible wildfire spread.

Additionally, Planner Zollinger described the addition of language that applicants must delineate the percentage of the lot containing Impervious Surfaces to help balance out the natural ability for native vegetation to filter through water versus water runoff. She pointed out the addition of language regarding Hydrozoning and Xeriscaping to help residents help understand the types of plantings and landscaping they should look for. They also specified Significant Vegetation, pursuant to the Commission's request, wherein,

"If the Significant Vegetation is determined to be unhealthy or unsafe, under a Site-Specific review conducted by the Forestry Manager and Planning Director in conjunction with a Conditional Use, Master Planned Development, or Historic District Design Review approval, it may be replaced."

She also noted that all Significant Vegetation shall be maintained onsite and protected during construction.

Planner Zollinger stated that Staff was looking for input from the Commission on the proposed language on the Wildland-Urban Interface ("WUI"), which she read as follows:

"Multiple trees from the approved WUI Planting List, clumped and grouped together with canopies of clusters being no closer than 18 feet to the next closest cluster within the Intermediate Zone, no cluster exceeding five trees or cover more than 15% of the Intermediate Ignition Zone, whichever is lesser, and with vegetation not closer than 10 feet to any portion of a structure with vegetation at full grown height and size."

She explained that although this might seem specific, the language comes from the WUI Code, and is most protective of residents and their homes from wild fires. She asked the Commission to consider whether they would like to keep it specific or opt for broader language. More specificity was added to the section on Artificial Turf, wherein recycled materials were recommended. She noted that they also added that landscaping must comply with the Municipal Code. Additionally, the Planning Director or designee may determine if proposed defensible space areas outlined in the WUI Code may be exempt from the 50% Water Wise requirement.

Planner Zollinger explained that they separated the Irrigation Plan from the Landscaping Plan. It was noted that there was a typo in the exemption language just referenced, wherein the word "form" should be replaced by "from." Planner Zollinger stated that the language for the Irrigation Plan section was already in the existing Code, they just moved it to this Section. They added language that Overhead Spray Irrigation shall be no greater than 12 inches above ground, and it is not permitted within 18 inches of any non-permeable surface. Overhead Spray Irrigation may be used for Lawn and Turf, but would not constitute a Water Wise landscaping method when used with other vegetation, which they defined later in the Code. They also added language allowing Graywater System locations, which is available through the County.

She pointed out the reduction in Maximum Lawn/Turf as a percentage of the allowed Limits of Disturbance ("LOD") area. She read the language regarding Lawn and Turf limitations for Recreation, Schools, Public, and Quasi-Public Institution Uses, which shall follow similar percentage limitations, except for athletic fields, and public or recreational open space, as determined by the Planning Director. The amendments also list the encouraged Lawn/Turf practices for residents' education.

Planner Zollinger referenced the Definitions and noted that they added a definition for Artificial Turf, and specified the size of Gravel. They also added a definition for Graywater. She noted that they used the State definitions for Lawn/Turf, Mulch, and Overhead Spray Irrigation. They also added Historic Significant Vegetation as a sub-definition of Significant Vegetation. The Water Wise Landscaping definition was also updated to be consistent with the State definition, and they added the WUI Immediate and Intermediate Ignition Zone for reference.

Commissioner Van Dine referenced the language in the section entitled Landscape Plan that "A complete landscape plan must be prepared for the limits of disturbance area for all Development activity." She asked if there were language somewhere else in the Code that established what Development activity would require a Landscape Plan. She stated that a couple of years ago, she added a second story to her house, and was asked for a Landscaping Plan even though the addition had nothing to do with the Landscape.

Commissioner Van Dine added that she spent weeks arguing about the fire zone and other elements that had zero relevance to the second-story addition. She asked how they could break this down into what Development activities should require what type of Landscape Plan to make it equitable so that residents would not be required to go through processes that are not relevant to these regulations.

Director Milliken explained that this requirement could present an opportunity to bring residents into compliance, so when significant changes are contemplated or an application is filed that requires a Landscaping Plan, it is an opportunity for the City to look at the landscaping to see if it is in compliance. If a landscape were not in compliance, they could then recommend changes

to bring it into compliance. Commissioner Van Dine understood this intent; however, she felt that there should be some way to not require a Landscape Plan on certain projects. She proffered situations where there is no disturbance around the home or activities that have low disturbance. She felt that this discouraged people, and she had a difficult time with this language. Planner Cawley explained that the WUI Code requires remodels over \$50,000 and all new construction and additions to go through this review.

Commissioner Hall referenced Director Milliken's comments and asked if someone were to install a new roof that cost more than \$50,000, they would be subject to the WUI Code and be required to submit a Landscaping Plan. Director Milliken reiterated that the requirement of a Landscape Plan was an opportunity for the City to look at landscaping, and noted that Park City is in a high fire-risk area. There was an inquiry as to whether the City was asking residents to bring their properties into compliance with the current Code and what would happen if a property owner refused based on the fact that the activities would not disturb the current landscaping. The situation of a roof replacement was again raised.

Planner Cawley referenced the existence of specific provisions in the WUI Code, and offered that depending on how the eaves would be done, there were exceptions on how the WUI Code would be enforced. He noted that WUI is the Fire Marshal's Code and the City was implementing parts of that Code to provide cohesiveness. He added that the Planning Department is the body that reviews the Landscape Plans against the WUI Code.

Commissioner Hall distinguished between the area around the structure versus the entire landscape of the property, and she felt there were two separate reviews: one under WUI and a full Landscaping Plan for remodels over \$50,000. This amendment intended to make everyone who does a Landscaping Plan come into compliance. It was noted by Planner Zollinger that the WUI Code was included in the Building Code, so as part of a second-story addition, the Building Department had to require a Landscape Plan pursuant to the WUI Code. She explained that this amendment provides that when someone presents a new Landscaping Plan, Staff could determine whether the plan is WUI-compliant.

Planner Cawley clarified that the intent of the Code would not require the submission of a Landscaping Plan for an addition. It was noted that the language referenced by Commissioner Van Dine was currently in the Code, and he asked for direction and whether the Commission wanted it changed. Commissioner Van Dine wanted to address the scope of "Development activity." Planner Zollinger stated that the \$50,000 WUI threshold was triggered by the Building Department. Commissioner Van Dine felt it could be bifurcated in some regard because they have to comply with the State WUI Code, yet it does not necessitate that all Development activity requires a full Landscaping Plan with a list of everything on a property.

Commissioner Frontero asked what the current trigger was for a homeowner to present a full-blown Landscape Plan. Planner Zollinger stated that for the Planning Department, the trigger was development such as a Single-Family home, but noted that it would not have been reviewed under the Landscaping Code. However, if the activity was not impacting or changing the landscape, the Code requires a Landscape Plan to be submitted and Staff wanted to ensure that going forward they have proper plans, because in the past they did not get very detailed information.

Commissioner Sigg asked how the requirement could be based on the cost of the addition rather than being based on the Limits of Disturbance created by the development. He noted

that someone might have a large piece of property, yet would only disturb a few thousand square feet by adding a deck. He felt it was punitive to require a full-blown Landscape Plan when the homeowner is only disturbing a small portion of their property and the landscaping on the property had already been signed off. Planner Zollinger stated that the Planning Department's trigger was not the \$50,000. If they wanted to clarify that the requirement is triggered by a certain square footage of disturbance caused by the Development activity, they could work through that.

Chair Suesser expressed confusion between the trigger under the Building Code and the fact that this was not a trigger under this Code. She suggested looking at the definition of Development and wondered whether it included any changes to a home. Commissioner Frontero asked whether anything that required a permit also required a Landscape Plan. It was confirmed that this was the current review process.

Commissioner Hall observed that nothing was done with the Landscaping Plan, except to put it on file unless there is a specific area around the WUI. She felt it was unnecessary to ask for something if nothing was being done with it. Commissioner Johnson commented that the Landscape Plan would be triggered whether a homeowner was replacing a roof, doing major construction, or doing something minor. Mr. Harrington understood that the Commission was directing Staff to narrow the requirement to reflect when a Landscape Plan would be required. He requested the Commission provide consensus direction to Staff to qualify Development activity to a potential trigger based on an area of disturbance, new construction, new construction outside the building envelope, or WUI. He stated there could be 3 or 4 things that could trigger the submission of an updated Landscaping Plan aside from a brand new permit for a first disturbance and a Limit of Disturbance. He suggested the Commission might also want to address the scenario if there is not a LOD because this provision does not address that situation.

Commissioner Van Dine stated that this was the intent of her comments. Mr. Harrington stated they would work with the Building Department and if it was something that would make that problematic, they could explain it at the next level or City Council, depending on the Commission's motion. Commissioner Van Dine requested that "Development activity" be further defined for new construction or something that significantly impacts the existing landscaping; and if WUI were triggered, then a WUI plan would be required. It was noted that the WUI review was already triggered somewhere else in the Code, so they would not even have to address that in these amendments. Commissioner Van Dine reiterated her request to define Development activity to determine when a Landscape Plan is required.

Commissioner Van Dine next referenced Section 6 and the Lawn/Turf percentages. She asked Staff if there were examples to show what the calculation would look like. She referenced the lots at Park Meadows that are 1/3 of an acre and inquired about what the calculation would look like for a typical space. Planner Zollinger stated they did not have that calculation at this time, but were working on an illustration.

Commissioner Hall asked about the reasoning behind the change in size for Rock and Gravel. Planner Zollinger stated that the Engineering Department suggested the change to 3 inches. There was discussion about how these materials are sold. Concerning the definitions, Commissioner Hall observed that Mulch was also classified as Rock, and noted that while Mulch was encouraged for groundcover, groundcover was limited to 20%. She also asked what was meant by "recycled materials" as it pertained to Mulches in Section 4. Planner Zollinger

believed that was currently in the Code and was unsure of what it included. Director Milliken stated that mulches are often recycled materials such as rock that is crushed, or other materials that are broken down to make them smaller. She did not believe this referred to plastic bottles or something similar.

Commissioner Hall asked how they would accommodate a garden, because most of the garden shrubs are not listed under the Water Wise plants. She felt it was unfairly punitive to not allow a full backyard garden on a drip system because they were not Water Wise plants. Planner Zollinger explained that the intent was that the Water Wise plants be at least 50% of the Landscaping Plan. Commissioner Hall would support an exception for gardens because although they are not listed as Water Wise, she felt backyard gardens were something that they would want to encourage as a community.

Commissioner Frontero supported a limitation on gardens. Commissioner Van Dine noted that as soon as a resident installs a small garden on a 1/3-acre lot, the resident would lose their ability to have any lawn. Commissioner Frontero was okay with that scenario and stressed that a garden would not be Water Wise, and residents were still able to dedicate 50% of their yard to gardens and the other 50% to Water Wise landscaping. He emphasized that the goal was to encourage residents to be more Water Wise, while at the same time understanding that they would want to encourage gardens. He felt that the 50/50 split was preferable, and was not in favor of more gardens and less Water Wise landscaping.

Commissioner Hall referenced the language under the Purpose section that "...little or no supplemental irrigation, including water conservation, irrigation..." and felt that it signified a drip line, yet it was not referenced in Section 2. She felt that drip irrigation was very efficient, but they were not recognizing the use of drip irrigation in the 50% requirement. Planner Zollinger suggested the following be added to Section 2: "Water Wise landscaping may be constituted through approved vegetation, location of planting methods. . .or little or no supplemental irrigation, including water-conserving irrigation systems."

Commissioner Hall suggested that the addition of drip irrigation could transform a non-Water Wise landscape into a Water Wise landscape. Director Milliken commented that Section 2 was not addressing water systems. Commissioner Hall noted that Section 2 copies much of the language in the Purpose section, except for water conservation irrigation. It was noted that Water Wise would include how the water is distributed.

Commissioner Hall also felt that the City exemptions for athletic fields, and public, or recreational open spaces were vague. She reiterated that if they were implementing these restrictions on the community, then they should include the City. She suggested eliminating the exemption. Mr. Harrington stated that he would check to see if Schools, Public and Quasi-Public Institutions had their own regulations pursuant to State code. Commissioner Van Dine recalled that during the CUP for the High School, they were told the Commission could not regulate its landscaping.

Commissioner Hall questioned whether parks would be allowed a lot of aesthetic grass, and she felt that if the City was not allowing residents to have grass, then they should not allow the grass in City parks unless it was in the recreational portion of the park that has a functional use. Purely aesthetic grass should be held to the same standards for both the City and its residents. She recognized that City Park would likely be grandfathered in at this point.

Chair Suesser asked how they could determine what grass would be purely aesthetic, and asked whether grass that is used by people for sitting or picnicking would be considered a recreational use. Commissioner Hall asked whether a backyard lawn where children play soccer would equate with a soccer field, and wondered why they would not apply the same logic to both. Chair Suesser understood this point but felt it was a definitional issue between purely aesthetic versus recreational. She agreed that a backyard where children play should not be considered purely aesthetic.

Chair Suesser commented that the Significant Vegetation language in Section 4.a.ix.D was not changed. She questioned how one would replace Significant Vegetation, and suggested that it read as follows:

“Significant Vegetation preservation shall be prioritized, but where applicable, Significant Vegetation may be removed or replaced to comply with Firewise Landscaping and/or Defensible Space regulations in Chapter 11-21 *Utah Wildland-Urban Interface Code*.”

Chair Suesser questioned why they would allow Water Wise plants to replace Significant Vegetation because it would open the door for someone to take out Significant Vegetation to replace it with Water Wise plants. She had an issue with that because it could be an easy way for someone to do whatever they wanted, regardless of the Significant Vegetation, because they were going to plant Water Wise plants. In this instance, there would be no preservation of Significant Vegetation, which was her concern. Commissioner Johnson agreed but noted the language regarding the Site-Specific review contained in subsection (A). Chair Suesser expressed that she was not saying that all Significant Vegetation should not be removed. Commissioner Johnson questioned whether this Section was worded to protect as much Significant Vegetation as possible and asked Chair Suesser if she would want to change subsection (A) as well. He also asked whether she wanted to include Affordable Master Planned Development in that subsection.

Chair Suesser felt that subsection (A) was fine, but they might want to specify “unhealthy and unsafe.” Commissioner Johnson agreed with Chair Suesser’s comments but noted that the issue of Significant Vegetation had come up a lot and he could think of multiple applications where large trees were removed and the applicant was able to replace them. He liked the way the subsection was written.

Commissioner Sigg asked where Significant Vegetation was defined. Commissioner Johnson advised it was in the Definition Section of the Code under Section 15-15, but Staff also added Historic Significant Vegetation. As Section 15-13 addressed Historic Landscaping Guidelines, he queried whether they wanted to reword this to reference that section. Planner Zollinger explained that Historic Significant Vegetation is anything they can determine from prior applications to be Historic. The intent was to help preserve longstanding Significant Vegetation, and the language referenced by Commissioner Johnson was to provide additional protections.

Commissioner Frontero asked if Chair Suesser would be agreeable to adding, “Healthy Significant Vegetation preservation...” Chair Suesser felt they needed to be careful and that they did not need the word “Healthy” as part of this section because it states in the prior section that unhealthy Significant Vegetation could be replaced.

Chair Suesser opened the public hearing.

Sara Jo Dickens identified herself as the owner of Ecology Bridge Environmental Consulting. She stated that in general, the Landscaping Plan asks for a list of species as well as the container sizes. She wondered if there was a follow-up to ensure that the Landscape Plan was implemented as proposed, and if so, to what degree are residents expected to conform to the Plan submitted. She noted that the availability of plants was a problem right now. As an ecologist, she would rather have a list of species that might be used, rather than a species. She stressed that she would not want an unhealthy Aspen that has been sitting in a big box store to be chosen simply because it was the species listed in the Plan when an incredibly healthy Maple that might also do well in the same situation was available. She added that an applicant might have grand landscaping plans, but when they get to the site they realize they might not have the soil moisture content or understand the height of the water table, which could necessitate a change. She felt that flexibility was important in thinking of a landscape as an ecosystem.

In addition, she noted that Landscape Plans are expensive, and many cannot afford the Plans or do not have the knowledge to prepare one on their own. She would hate to think that they have this opportunity for people to be more Water Wise, but they do not do it because they cannot afford to hire someone to prepare their Plan. Dr. Dickens referenced the wording regarding noxious weeds and understood that was not something identified in the changes. The Code currently states that noxious weeds should be controlled to get the Certificate of Occupancy. She stressed that noxious weeds were not something they can just remove when the project is completed. She was concerned that they would allow people to do projects and allow noxious weeds to persist throughout the project, and then address the noxious weeds before moving in.

She explained that once established, there could be 10 – 20 years of weed control. She would rather see language that requires the plan prior to work happening on the ground and whether the developer knows what weeds are present and how to properly control them. She would like to see a requirement for a plan to control noxious weeds while the bare ground is exposed because that is when they spread. She would also like to see how a developer planned to remove the weeds, and how long they would continue to monitor and control them. Dr. Dickens stated that some of the species in the area are quite difficult to control and can take years of difficult control or herbicides. She mentioned Canada thistle and explained that if a remodel took two years to complete, during that time it would likely spread underground 3 – 4 times the size seen aboveground. She referenced the list of County and City-listed noxious weeds and noted that noxious weeds are legally identified originally at the State level, so they might want to state that the listed weeds are State listed noxious weeds, and cities and counties can add to those lists based on impacts.

Dr. Dickens loved the idea of limiting turf because turf that is not needed is not great for conservation. At the same time, there are some great uses for turf, so she liked seeing the balance. They might want to look at helping people understand how to increase soil health and suggested recommending using compost rather than fertilizing 3 – 4 times per year. She also mentioned educating on ways to increase the soil's capacity to hold water. With regard to the mowing height, she asked why they specified 2 – 3 inches because the optimal height is 4 inches. Studies have shown that by increasing the turf height, in time they could increase the soil carbon by 1%, which equates to a catchment of one inch of rain during a storm event. That equates to 20,000 gallons of water being captured on one acre, just by raising the blades. She suggested obtaining the research on blade height and mentioned that a study was done for the Park City Golf Course.

Dr. Dickens referenced the inclusion of fountain grass on the species list and advised that fountain grass is a noxious weed in other Western states. She advised that it is incredibly flammable and invasive. If they are looking at climate change and climate scenarios that are increasingly similar to parts of California, having fountain grass on the list could create massive amounts of dry biomass that is very flammable. Therefore, she recommended removing that from the list of species. In the Water Wise definition, she referenced the recommendation to use native, drought-tolerant plants. As an ecologist, she used to think that natives should always be used; however, with climate change, they should recognize that what is native might not be the most suited to the area ten years from now. She did not know that the reference to native would be wise, even affordable, or attainable because native plants are not easy to obtain. She mentioned that many non-native plants are non-invasive and drought-tolerant because they evolved somewhere else in the world in very similar conditions. They might want to include "native and non-invasive non-native drought tolerant plants."

Chair Suesser commented that this was wonderful input and thanked Dr. Dickens for her feedback. She noted that for this to work, they have to make this process as accessible as possible for everyone. She felt that the goal should be to make it user-friendly, and she felt it would be better offered as a guide, rather than a regulation.

Dr. Dickens mentioned a new program in Summit County that they were looking to incorporate into a Green Business Program. This program is called Trout Friendly Landscapes, and the idea behind it is more outreach and education on how what a resident does in their backyard is carried downstream and impacts wildlife such as trout. It started in Sun Valley, Idaho, and then moved to Jackson Hole, Wyoming to address either water quality or quantity; in the City's case, they need to address both issues. She stated that they could help provide the informational materials they were creating for the program. She noted there are different levels, but stressed that everything on the first level could be achieved with no cost because they did not want anyone to feel like they could not start the process. The next level requires some cost, and as residents get to higher levels, it requires more cost. They provide stipends and they were looking to expand it to teach landscapers to become Trout Friendly certified so they could provide information to clients. She suggested reaching out to Celia Petersen to see how they would integrate it.

Commissioner Kenworthy thanked Dr. Dickens and stated that she always elevates the class of 2023. He also highlighted education and enforcement. He stated that they have an obligation to dummy down the Water Wise regulations because many want to be a part of this, but who would not be able to get through these amendments. He stressed that education should be a great part of this, and they could go back to some of the other discussions about enforcement. He would like to have some kind of informant enforcement and oversight plan in place once they have balanced out these regulations.

Chair Suesser could not answer the question of whether anyone at the City follows up to ensure that a submitted Landscape Plan was implemented. She imagined it was part of the Building Department processes. Planner Zollinger offered that it was shared, and stated that Planners go to a site to check what they can. Mr. Harrington stated that the State consistently frowns upon the enforcement of private landscaping. Park City has had very rigorous enforcement compared to most municipalities. He mentioned bonding, and how they incrementally release a LOD Bond. They have seen prior legislation limiting the application of project landscaping

bonds, and there would be further legislation this Session that would clarify that as being prohibited.

He added that they face some limitations as the Certificate of Occupancy focuses primarily on life safety, whereas landscaping generally does not limit the issuance of a CO. He mentioned that the Conditions on the larger projects and Development Agreements are more important because they can be part of an affirmative agreement in exchange for other things within the Development Agreement.

Chair Suesser asked about a plan for education, outreach, and training for these new regulations. Planner Zollinger advised that Staff was still working on the website that would provide information to residents. She stated that the website would contain a link to Utah State University's resources, as will the program mentioned by Dr. Dickens. They would also reach out to the survey respondents with follow-up information.

Commissioner Hall disclosed that she has an active Building Permit but these amendments would in no way impact it because it has already been submitted.

Commissioner Johnson liked the comments to encourage Lawn/Turf practices to change the height from 3 inches to 4 inches. He also liked the suggestion to encourage compost and bio char.

Commissioner Hall agreed and requested that the public comment be incorporated into the Commission's request to Staff.

Commissioner Johnson asked if they could encourage composting by not counting it against the 50%.

There were no further public comments. Chair Suesser closed the public hearing. She noted Dr. Dickens' suggestions about the plantings and suggested discussing those suggestions at the next meeting. Staff could consider Dr. Dickens' suggestions and provide feedback to the Commission.

MOTION: Commissioner Hall moved to CONTINUE the Land Management Code Amendments to February 8, 2023. Commissioner Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

Following a short recess, Chair Suesser confirmed the presence of all Commissioners.

D. Land Management Code Amendment – Amendment to the Land Management Code Section 15-2.13-2 to Prohibit Nightly Rentals and Fractional Use in Solamere Subdivision No 1 & No. 2 A, West Ridge Subdivision, West Ridge Subdivision Phase 2, and Prohibit Nightly Rentals, Fractional Use, and Timeshares in Chatham Crossing Subdivision. PL-22-05391; PL-22-05403; PL-22-05471.

Planner Cawley reported that this application seeks to amend Land Management Code Section 15-2.13-2, which outlines the uses in the Residential Development ("RD") Zone. He advised that representatives from Chatham Crossing, Solamere, and West Ridge were present. Each

Subdivision submitted its own application, and while there were some differences, they were presented together for the sake of consistency. They would also have one Ordinance for the City Council's consideration.

Planner Cawley reported that Chatham Crossing Subdivision's original request pertained to Nightly Rentals, Fractional Ownership, and Timeshares. As Timeshares were already a prohibited use in the RD Zone, they would not be incorporated into the final Ordinance. Solamere Subdivisions No. 1 & No. 2A requested to prohibit Fractional Ownership only. West Ridge Subdivision and West Ridge Subdivision Phase 2 requested to prohibit Nightly Rentals and Fractional Ownership.

Planner Cawley explained that currently, Nightly Rentals were an allowed use, and Fractional Use was listed as a conditional use in the RD Zone. Timeshares are prohibited. Chatham Crossing, also known as Chatham Hills HOA, is located in the Prospector neighborhood. There are 53 lots in the subdivision, and 44 of those are developed. He stated that within this subdivision, 43 property owners expressed support for this amendment. Staff researched active nightly rental business licenses within this subdivision, and did not find any. He added that this subdivision abuts the Recreation Open Space and Estate Zones.

Planner Cawley reported that Solamere Subdivision Nos. 1 & 2A are located in the Lower Deer Valley neighborhood. The original request was to prohibit Nightly Rentals; however, their definition of Nightly Rentals is less restrictive than the City Code. They have therefore withdrawn that request and were moving forward with only requesting a restriction for Fractional Use in these subdivisions. He reported that there are 111 property owners, 50% of which are primary residents. The President of the Board stated in their written submission that "The Solamere Homeowners Association Board believes that Fractional Ownership is inconsistent with the residential character of our neighborhood." Therefore, they petitioned the City to amend the LMC for the uses in this subdivision. The Solamere Subdivision abuts the Recreation Open Space and Estate Zones.

Planner Cawley stated that the West Ridge Subdivision and West Ridge Subdivision Phase 2 are located in the Park Meadows neighborhood. There are 41 lots, and two remain undeveloped. He reported that 35 of the 40 property owners supported this amendment. There are no active Nightly Rental business licenses, and this subdivision abuts Recreation Open Space and Single-Family Zoning Districts. He explained that the proposed LMC Amendments to prohibit Nightly Rentals and Fractional Use in Chatham Crossing and West Ridge Subdivisions, and prohibiting Fractional Use in the Solamere Subdivision complies with the Park City General Plan and the LMC. He specifically referenced the Sense of Community, which is identified as a core value in the General Plan, to preserve areas for primary residents. Goal 7 is to create a diversity of primary housing opportunities to address the changing needs of residents. Within that goal is Objective 7B, which is to focus efforts for diversity of primary housing stock within primary residential neighborhoods to maintain majority occupancy by full-time residents.

Goal 8 seeks to increase affordable housing opportunities. Within this goal is Objective 8C, which is to increase housing ownership opportunities for the workforce within primary residential neighborhoods. Planner Cawley stated that the Prospector, Lower Deer Valley, and Park Meadows neighborhoods encompass all of the zoning districts in the table presented to the Commission. He explained that the table illustrated how the prohibitions on Nightly Rentals, Fractional Use, and Timeshares correspond with these zoning districts and the neighborhoods

within these zoning districts. He submitted that prohibiting Nightly Rentals and Fractional Use in Chatham Crossing and West Ridge, and prohibiting Fractional Use in Solamere was consistent with the General Plan, as well as within some of the neighboring zoning districts of the Prospector, Lower Deer Valley, and Park Meadows neighborhoods.

He referenced footnote 3 in the current Code which states:

“Nightly Rentals do not include the Use of dwellings for Commercial Uses and Nightly Rentals and Dwelling Unit, Fractional Use are not permitted in the April Mountain, Mellow Mountain Estates Subdivisions, Meadows Estates Subdivisions Phases #1A and #1B, Fairway Meadows Subdivision, and Hidden Oaks at Deer Valley Phases 2 and 3.”

Planner Cawley stated that there was precedent for the proposed LMC Amendments within the RD Zoning District because other subdivisions have restricted Nightly Rentals through the same process. He referenced Ordinance No. 2022-21 and noted that these same subdivisions were included as prohibiting Fractional Use. Beginning in 2014, April Mountain and Mellow Mountain Estates Subdivisions petitioned the City to restrict Nightly Rentals, and from 2020 to 2021, the remaining subdivisions listed above sought to restrict Nightly Rentals.

Planner Cawley stated that as part of the Fractional Use Ordinance, in October the City Council directed Planning Staff to evaluate Timeshares, Private Residence Clubs, and Fractional Use in three zoning districts, which included the RD Zone. There is a pending Ordinance that temporarily prohibits these uses in the RD Zone, and later in this meeting, there would be a Work Session to discuss this issue. The proposed amendments to Footnote 3 would remove the reference to Fractional Use so that it could be put into a different Footnote. They would include all of those Subdivisions that requested to restrict Nightly Rentals and would include Chatham Crossing and West Ridge in those amendments.

Current Footnote 19 states that Fractional Use requires an Administrative Letter with a reference to the applicable section on Fractional Use. The proposed amendment to Footnote 19 would state that “Dwelling Unit, Fractional Use is not permitted...” followed by a list of those Subdivisions and including Chatham Crossing, West Ridge, and Solamere Subdivisions. He noted a correction to the Recitals in the Draft Ordinance due to Solamere withdrawing its request to prohibit Nightly Rentals. He corrected it to reflect that Chatham Crossing and West Ridge requested prohibition of Nightly Rentals and Fractional Use, and Fractional Use prohibition was specific to Solamere Subdivision Nos. 1 & 2A.

Planner Cawley reported that Staff published notice on the City’s website, and the Utah Public Notice website on December 24, 2022. Notice was posted to each Subdivision and a courtesy notice to all property owners was sent on December 28, 2022. Notice was published in the *Park Record* on December 24, 2022. Staff had not received any public input. Staff recommended the Commission review the proposed LMC Amendments to prohibit Fractional Use in Solamere Subdivision Nos. 1 & 2A, prohibit Nightly Rentals and Fractional Use in West Ridge Subdivision and West Ridge Subdivision, Phase 2, and Chatham Crossing Subdivision, hold a public hearing, and consider forwarding a positive recommendation for City Council’s consideration on February 16, 2023.

Commissioner Sigg disclosed that he owns three properties in the Chatham Hills neighborhood and asked if he should recuse himself from deliberation on this item. Mr. Harrington stated that disclosure was sufficient.

Commissioner Hall was excited to see homeowners take it upon themselves to self-regulate and applauded the applicants for encouraging their own amendments and wished it wasn't such an arduous process.

Commissioner Kenworthy also complimented the applicants and City Staff for working together to adhere to the General Plan. He noted that in the past eight years, they have held 3,000 plus units of primary residents, which is the community of Park City. He found irony in the reference on page 12 that Thaynes should remain a quiet residential neighborhood.

Chair Suesser liked hearing from HOAs directly and giving them the tools to regulate their communities as they see fit.

Chair Suesser opened the public hearing.

John Feasler was present representing West Ridge HOA and expressed his appreciation to Planner Cawley and Staff for their help in pulling the application together. He advised that the HOA was in the process of re-drafting its CC&Rs. They currently have language that prohibits Nightly Rentals, and they would include Fractional Use. They hoped to have the re-draft complete before the City Council meeting in February.

Inaudible name represented Solamere Nos. 1 & 2A and advised that they had amended their CC&Rs and 97% of those who responded wanted to prohibit Fractional Ownership. He also complimented Planner Cawley's work on this application.

Commissioner Frontero asked why Solamere withdrew its request to prohibit Nightly Rentals. The speaker stated that Solamere had always disliked the idea of Fractional Ownership. He mentioned a prior Staff Report that stated these four Subdivisions would be excluded from the Ordinance because they had made an application to limit Nightly Rentals. They then applied with the understanding that by doing so, they would be excluded from Fractional Ownership. When they amended the CC&Rs, 97% wanted Fractional Ownership prohibited but were agreeable to one Nightly Rental per seven days. Based on discussions with Planner Cawley, they ended up withdrawing the request regarding Nightly Rentals.

Carol Dalton represented the Chatham Hills and Chatham Crossing Subdivision. Since the development of the neighborhood, the HOA restricted Nightly Rentals through the CC&Rs and they always had a lot of support for that restriction.

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

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation for City Council's consideration on February 16, 2023, for the Land Management Code Amendments on the Solamere, Chatham Crossing, and West Ridge Subdivisions, as set forth in the Draft Ordinance attached as Exhibit A to the Staff Report.

Commissioner Kenworthy seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

E. 3045 Ridgeview Drive – Plat Amendment – The Applicant Proposes a Plat Amendment to Convert Common Space to Private and Limited Common Space to Correct Existing Non-Conformities to Match As-Built Conditions. PL-22-05360

Planning Technician, Jaron Ehlers reported that on August 26, 1982, the City Council approved the Ridgeview Townhouse Condominium Plat Amendment following approval by the Planning Commission. A plat note stated that all common space was to be dedicated to the HOA and the City as a public-use utility easement. Unit 3-B in the complex was not built as specified on the plat and expanded into the common area, which created de facto private and semi-common space. Staff was not able to determine exactly when this occurred, but they found a 2018 landscaping permit showing the non-compliant deck and front porch of the structure already in existence.

Planner Ehlers stated that on August 22, 2022, the applicant requested a building permit for an interior remodel, and Staff determined that a Plat Amendment was required due to the nonconformity. On August 24, 2022, the applicant submitted this application for a Plat Amendment and a conditional building permit was issued to the applicant. He presented images for Unit 3-B from the original plat, and he highlighted the areas of non-conformity. He explained that the proposal to amend the plat to convert the common area to private and limited common complied with the Subdivision procedures outlined in the LMC. He added that good cause existed because it would resolve existing non-conformities and bring the property into compliance with the Code. No public street or Right-of-Way would be vacated, and a public utility easement would be partially vacated.

Planner Ehlers stated the proposal to amend the plat also complied with the RD Zoning District requirements in that it is an allowed use. The proposal also complied with the LMC parking ratio requirements. He advised that Unit 3-B has a garage that is 23' x 23.5', which is larger than what is required by Code for a two-car garage. He reported that the Development Review Committee reviewed this application on January 3, 2023, and did not identify any issues. The Planning Department, Engineering Department, and City Attorney's office also reviewed this application.

Staff did not receive any public input at the time of publication of the Staff Report or since. Notice was published to the City's website and the Utah Public Notice website, and published to the property on December 22, 2022. Staff mailed courtesy notices to property owners within 300 feet on December 22, 2022, and the *Park Record* published notice on December 24, 2022. Staff recommended the Planning Commission review the proposed Ridgeview Townhouse Condominium's amendment for Unit 3-B, hold a public hearing, and consider forwarding a positive recommendation for City Council's consideration on February 16, 2023, based on the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Draft Ordinance.

Commissioner Johnson sought clarification that the non-conformities occurred during the original construction. Planner Ehlers could not confirm that fact. The applicant, Andrew Widin, stated that his contractor for the remodel speculated that the non-conformity was part of the original construction based on the extension of the footings. Also, a neighbor who has lived there for 20 years advised that the non-conformity existed when he moved in. With regard to the vacation of the public utility easement, Mr. Widin stated that both of the improved areas

were within the existing original footprint of the building, so nothing was done in the past, or would be done, that would extend outside the original footprint. He felt it was not an issue.

In response to Chair Suesser's question regarding vacation of the public utility easement, Planner Ehlers stated that the plat states that all common areas would be a public utility easement. The Development Review Committee was agreeable with the proposed change by way of a plat amendment because it was included in the plat.

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

MOTION: Commissioner Johnson moved to forward a POSITIVE recommendation for City Council's consideration on February 16, 2023, for 3045 Ridgeview Drive – Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Ordinance as follows:

Findings of Fact:

1. On August 26, 1982, the City Council approved the Ridgeview Townhouse Condominiums, creating four townhouses along Ridgeview Drive. The Ridgeview Townhouse Condominiums are in the Residential Development Zoning District.
2. The 1982 Ridgeview Townhouse Condominium Plat has a note, which dedicated all common space to the City as a public utility easement.
3. Unit 3-B was not built as specified by the Ridgeview Townhouse Condominium Plat, expands into the common area, and includes a patio constructed in common area.
4. In 2018, a landscaping permit was applied for which showed that the non-complying patio was already constructed at that time.
5. In August 2022, the Applicant requested a building permit for an interior remodel but when it was discovered that their work would include the noncompliant areas of the house, they were required to apply for a plat amendment.
6. After the plat amendment was submitted on August 24, 2022, a conditional building permit was issued, limiting the work they could do in the non-compliant areas.
7. The proposal to amend the plat to convert common area to private and limited common complies with the Subdivision Procedures outlined in LMC Chapter 15-7.1.
8. There is Good Cause for this plat amendment because it resolves existing nonconformities and brings the property into compliance.
9. No Public Street or Right-of-Way is vacated.

10. A Public Utility Easement will be vacated.
11. The proposal to amend the plat to convert common area to private and limited common area complies with the Residential Development (RD) Zoning District requirements outlined in LMC Chapter 15-2.13.
12. The proposal, as conditioned, complies with LMC § 15-3-6, Parking Ratio Requirements.

Conclusions of Law:

1. There is Good Cause for the Ridgeview Townhouse Condominiums First Amendment – Amending Unit 3-B.
2. The amended plat is consistent with the Park City Land Management Code and applicable State law regarding plat amendments.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the plat amendment, subject to the conditions of approval, will not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the Conditions of Approval, prior to recordation of the plat.
2. The Applicant shall record the plat at the County within one (1) year from the date of City Council approval. If recordation has not occurred within one year, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. There will be no external changes or expansion of the existing building footprint.
4. The Applicant shall receive approval of the vacation of the easement with the public utilities before the amended plat may be recorded.

Commissioner Van Dine seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission.

6. WORK SESSION

A. Land Management Code Amendments – The Planning Commission Will Conduct a Work Session Regarding Possible Amendments to Land Management Code Sections 15-2.13-2, 15-2.14-2, 15-2.18-2, and 15-2.19-2 for Timeshares, Private Residence Clubs, and Fractional Use of Dwelling Units in the Residential Development, Residential Development Medium, General Commercial, and Light Industrial Zoning Districts. PL-22-05439

Assistant Planning Director, Rebecca Ward explained that these proposed amendments were requested at the direction of the City Council. On October 27, 2022, the City Council enacted an Ordinance to regulate Fractional Use. Also at that time, the City Council issued a Pending Ordinance because they requested Staff revisit Residential Development, Residential Development Medium, and General Commercial Zoning Districts to look at Fractional Use, Timeshares, and Private Residence Clubs in those zones. The Council directed Staff to return within six (6) months with recommended amendments. She recounted the history of the three transient uses and reported that Timeshares came into the community in the 1980s when the use of units could be over a certain limit of time. When Timeshares were initially implemented, they were allowed in the Commercial Zone, which allowed them near the Park City Mountain Resort. She noted that Timeshares were not allowed near the Deer Valley Resort in those zones.

In the early 2000s, a new Timeshare model arose where one could have ownership of a unit for use during certain times. Those are defined in the Code as a Private Residence Club, and in the 2000s the Code was expanded to allow for Private Residence Clubs in Commercial Zones as well as those at the Park City Mountain Resort Base and Deer Valley Base. While Timeshares and Private Residence Clubs are specific to condominiums and multi-unit dwellings, Assistant Director Ward noted that in the last few years, a new model came into town wherein Single-Family Dwellings were sold for Fractional Use as vacation homes. Fractional Use regulations were therefore enacted last year.

Chair Suesser asked if the Marriott on Lower Main fit into the Timeshare category. Assistant Director Ward explained that the Marriott is in the Commercial Zone, and the way that the LMC defines Hotel, Fractional Use was allowed under that designation. Chair Suesser posited that if they rezoned an Inn as a Hotel, then it could include Fractional Ownership. Assistant Director Ward agreed.

Assistant Director Ward explained that this Work Session was to determine if additional information was needed, to address questions and concerns, and whether there was a preferred option. In addition, she noted that they could discuss appointing a Planning Commissioner to serve as a liaison as these amendments move forward. She stated that as outlined by the General Plan and based on Summit County records, in 2000 approximately 41% of housing units in Park City were occupied by a primary resident. That number dropped to 30% by 2010, and in the past 6 – 8 years, the number has hovered around 30%. She stated that the latest numbers were at 32%.

When the City went through the Vision 2020 process, it was noted that the City needed to find a delicate balance between visitors and residents. Also mentioned was the quality of experience for residents and visitors, and a call to develop protected spaces that provide locals with “respite that enhance the local sense of contentment.” She also noted that the General Plan contains a

call to protect primary resident areas and to provide a wide variety of housing stock for primary residents.

Assistant Director Ward advised that in the Commercial Zones, transient uses fall within the Purpose Statements of those zones. The Purpose Statement in the RD Zone states that commercial uses should be allowed if they are in harmony with residential neighborhoods. It also states to allow residential uses that are compatible with the City's development objectives, design standards, and growth capabilities.

In the RD Medium Zone, the Purpose includes allowing the continuation of Residential and Resort related housing. She presented maps for purposes of discussion of the three potential options. Option 1 would be a restrictive option that would allow transient uses in Commercial Zones, as well as Residential Development Medium Zone. This would occur while the General Plan was updated with the possibility of revisiting where transient uses would be allowed after that time.

Options 2 and 3 were based on the existing General Plan and the recommendations within that Plan, and specific neighborhoods that recommended resort-related housing opportunities. She explained that Option 2 was based on the 10 neighborhoods within the General Plan and would allow transient uses in Old Town, hotels in Bonanza Park, and Upper and Lower Deer Valley neighborhoods. She explained that Option 3 was very similar to Option 2. The difference was that there are multi-unit dwellings and townhomes around the Snow Park Loop in the Lower Deer Valley neighborhood. This option would exclude the Single-Family Developments to the north of that area.

Assistant Director Ward next presented each General Plan neighborhood and illustrated how the different options would impact the neighborhoods. The first neighborhood was Thaynes, which is in the Single-Family Zone. Staff recommended no changes, and transient uses would continue to be prohibited. The General Plan identified Thaynes as a local neighborhood in which primary residents choose to live, and it should remain a quiet, residential neighborhood. She next presented a map of Park Meadows, which encompassed everything east of SR 224 and north of SR 248, excluding the Snow Creek area. The zoning for this area includes Residential Development and Residential Development Medium. It is zoned RD around the golf course, and RD Medium along SR 224.

The General Plan identified Park Meadows as the neighborhood with the highest population of full-time residents, and future land use should be geared toward sustaining this area as a primary resident neighborhood. She explained that Option 1 would allow transient uses in the RD Medium area, whereas Options 2 and 3 would prohibit transient uses in this neighborhood.

With regard to the Bonanza Park neighborhood, Assistant Director Ward advised that it included the Snow Creek area, which included RD Medium, General Commercial, and Light Industrial Zoning. The General Plan identified this as a mixed-use neighborhood where locals live and work. She added that because of the pending Bonanza Park and Snow Creek Small Area Plan, Staff recommended prohibiting transient uses in this neighborhood until the Area Plan is complete, with an option to revisit in the future. She added that hotels were allowed in this neighborhood and Timeshares would still be allowed.

Assistant Director Ward stated that the Prospector Square neighborhood had General Commercial, Single-Family, and RD zoning. She noted a small triangle of RD Medium zoning,

but the properties within that area were deed restricted as affordable units. She noted that the General Plan identified this neighborhood as a local, commercial district within a residential neighborhood, and it should be protected as a local's neighborhood. Transient uses would be prohibited in all three options.

She next turned to the Resort Center neighborhood and explained that it included Recreation Commercial, Estate, Single-Family, RD, and RD Medium zoning. The General Plan identified this as an area where redevelopment integrates the resort with a strong sense of community and recommended buffers that transition from the Resort to the surrounding residential areas. In this neighborhood, Assistant Director Ward advised that Option 1 would allow transient uses in the Commercial zones and the RD Medium zones. Options 2 and 3 would allow transient uses in those two zones, as well as in the Residential Development zones.

Chair Suesser sought clarification as to whether King's Crown was included in the Resort Center neighborhood. Assistant Director Ward stated that King's Crown was not in that neighborhood, but was located in the Recreation Commercial Zone. Because King's Crown would fall within the Old Town neighborhood where all three transient uses would be allowed in Commercial zones, it would be included in all three transient uses.

Assistant Director Ward stated that for the Old Town neighborhood, they recommended that transient uses be prohibited in all Residential Historic zones; however, the transient uses would continue to be allowed along Main Street in the Historic Commercial Business and Historic Recreation Commercial zones. She mentioned that the General Plan recommended that the residential areas in Old Town be protected. Option 1 would allow transient uses in the commercial zoning districts along Main Street. Options 2 and 3 would also allow transient uses in the Residential Development Zone near the Lower Deer Valley neighborhood.

She then identified the Masonic Hill neighborhood, where the zoning is Estate Single-Family and Residential Development. The General Plan identified this neighborhood as one with a balance of primary and secondary residents. Staff recommended that transient uses be prohibited in all three options in this neighborhood. The Lower Deer Valley neighborhood includes the Snow Park area up through Chatham Crossing Subdivision. She recalled the earlier item where the Planning Commission heard Code amendments to prohibit transient uses as well as Nightly Rentals.

She explained that there is Estate Zoning in this area, which already prohibited transient uses within the RD zones. The General Plan recognized that this was a resort neighborhood that catered to second homes and nightly rentals. She stated that Option 1 would allow transient uses in the Recreation Commercial zones, including Founder's Place and St. Regis. This option would prohibit transient uses in all other zoning districts.

Option 2 would allow transient uses in Recreation Commercial and the RD zoning districts, while Option 3 would allow transient uses in Recreation Commercial and RD zoning districts, but exclude those subdivisions north of Solamere. She noted that all of those subdivisions that had requested to be excluded from nightly rentals would prohibit transient uses.

Chair Suesser mentioned the subdivisions around the lake and asked if Option 3 would allow transient uses. Assistant Director Ward's response was inaudible. Assistant Director Ward explained that the Upper Deer Valley neighborhood included the American Flag Subdivision South with the Flagstaff and Empire Pass properties. The zoning for this neighborhood is

Residential Development and the General Plan states that this is home to resort-oriented development, including housing for second homes and nightly rentals. Pursuant to the General Plan, housing was to remain oriented toward second homes and/or nightly rentals and efforts to increase the year-round demand on the available bed base should continue in this area.

Option 1 would prohibit transient uses pending the General Plan update, with the possibility of revisiting it in the future. She explained that based on the current General Plan, Options 2 and 3 would allow transient uses, excluding subdivisions that have requested prohibition of transient uses and/or nightly rentals. She remarked that in the Quinn's Junction neighborhood, the only residential uses are in Park City Heights. The zoning in this neighborhood is Community Transition, and the General Plan identified this as a neighborhood for institutional uses. It includes the Park City Hospital Campus. Because of the distance to the resorts and the limited residential uses in this zone as far as the number of affordable and attainable units, Options 1, 2, and 3 would prohibit transient uses in this neighborhood.

Assistant Ward indicated that this was a high-level introduction to these amendments, and requested any additional information and Commission direction to evaluate these amendments. Chair Suesser referenced page 23 of the Staff Report and the reference to Residential – 1, Residential Development, and Residential Development Medium. She requested clarification as to Residential – 1. Assistant Director Ward advised that it is one of the residential zoning districts, and transient uses would be prohibited in that zone.

Commissioner Sigg asked if there was a provision that would grandfather properties. He wondered what would occur if transient were prohibited in an area by these amendments, yet someone already had that use. Assistant Director Ward referenced an exhibit attached to the Staff Report that outlined the records they were able to find for approved Timeshares and Private Residence Clubs. She explained that if there was an existing Timeshare, Private Residence Club, or Fractional Use that was legal at the time it was approved, it would continue to be allowed as long as the use did not change.

Commissioner Sigg asked if allowing nightly rentals would exasperate the housing issue, because if they allow nightly rentals in these areas that would take housing inventory off the market. People would then be required to take housing based on availability, not based on whether they wanted to live in a neighborhood. He felt that a lot of what they were looking at was continually exasperating the workforce housing situation by continuing to allow nightly rentals, and now fractional ownerships. He commented that approximately 80% of people in Park City own their property through an LLC, so they could not know how many members were in that LLC. He felt these transient uses and nightly rentals should be more restrictive and located in commercial areas. Commissioner Sigg felt that exasperating the workforce housing needs with these regulations and amendments would just proliferate more development.

Commissioner Hall did not feel the need for much additional information. She also did not feel they needed a Planning Commission liaison or more Work Sessions on these amendments. She would like it to come back as a Regular Agenda item so they could pass it on to City Council. She expressed her preference for Option 3 because she felt it was the right balance between restricting it in locations where primary residents live and encouraging it where the transient population would be located.

Commissioner Hall also felt that a carve-out for an HOA that wanted to either opt in or opt-out would be prudent to allow them to self-regulate. In general, she agreed with Commissioner

Sigg that whatever they could do to restrict these uses would be great as it would be consistent with the General Plan and overwhelming public comment.

Commissioner Johnson observed that Option 1 appeared to be the most restrictive and felt it was the closest to where they were during prior discussions.

Chair Suesser asked for a summary of the options. Assistant Director Ward agreed that Option 1 was the most restrictive. She noted that there were neighborhoods in the General Plan where they would recommend transient uses, especially near the resorts. This would remove the Deer Valley and Flagstaff area until the General Plan update was completed.

In the meantime, Option 1 would allow for transient uses in Parkview, Jupiter, Windrift, and Saddle Condominiums in the Residential Development Medium zone along Park Avenue. If they were to go with Option 1, Commissioner Van Dine asked if the Upper Deer Valley area could be added to this after the General Plan update. Assistant Director Ward stated that if Option 1 were put into place, at the end of the General Plan update they could then re-evaluate based on the outcome of the update.

Commissioner Sigg understood that a transient use was not a long-term rental. Assistant Director Ward explained that nightly rentals were not included in the study as directed by Council. If the Planning Commission wanted to make a recommendation to evaluate nightly rentals, they could do that. She confirmed that nightly rentals were not included in any of the options presented.

Chair Suesser clarified that in Option 1 transient uses were just in commercial areas and excluded in the RD and RD Medium zones. She observed that Option 1 just addressed transient uses, whereas Options 2 and 3 referenced the different neighborhoods.

Commissioner Van Dine asked about current listings for Fractional Ownership and what would happen if these properties were not actually sold when the amendments were passed. Mr. Harrington stated that the Staff Report mentioned public outreach between now and a public hearing on this item. He stated it would be a case-by-case determination in terms of whether they qualify as non-conforming for the properties if they were legally established prior to the amendments. There is a process in the Code where persons can apply to the Planning Director for that determination. He stated that because they did not currently regulate it, applicants would have to submit proof of establishment of the transient use prior to the adoption of the amendments.

Commissioner Hall expressed a sense of urgency to get this done because every day that passes is an opportunity for someone to fractionalize a home. Assistant Director Ward noted that on October 28, 2022, the Council issued a Pending Ordinance prohibiting Timeshares, Private Residence Clubs, and Fractional Uses.

Commissioner Sigg observed that many of the zones contained the type of housing that could be affordable for a professional. In the Jupiter and Parkview area, some condominiums are 2,000 to 2,500 square feet, and the rents would top out. He observed that there was a lot of housing for people who want to live here full-time. He reiterated that they were continuing to exasperate the problem by allowing these uses where the scale of existing housing is exactly the type of housing they need as non-workforce housing on a long-term basis.

Commissioner Johnson agreed but the only problem with this position was the cost for a two-bedroom condominium was \$1.5 million. Commissioner Sigg felt that long-term rentals were different than short-term nightly rentals. He stated it was not about the price, but the problem lies in the fact that the rents for those units would top out at a certain amount. The perfect type of housing was long-term rental housing. He observed that they were making these units available for more nightly rental and short-term uses, which takes rental stock away from the market. They would then need more affordable housing because this would weed people out by making properties more available as a nightly rentals. He expected there was a vast market of people who could pay \$2,000 to \$3,000 per month in rent.

Chair Suesser understood that Commissioner Sigg would like to see a more restrictive option such that Fractional Ownership would be limited to where Timeshares and hotels exist. Commissioner Sigg stated that his comments were also about nightly rentals. Chair Suesser agreed with the comments about lost housing stock but wanted to focus on the feedback for the presented amendments.

Commissioner Sigg would want to restrict transient uses to the core base areas where visitors want to go anyway. He did not feel that these uses should be spread all over the City. Chair Suesser stated that she would like to see an option like that as well. Commissioner Kenworthy agreed with Commissioner Sigg.

Commissioner Van Dine observed that these amendments did not apply to nightly rentals, but only the transient uses. She was supportive of Option 1 and agreed that Upper Deer Valley where the General Plan tried to push these uses should be acceptable. She added that she would likely prefer Option 3, but would also support Option 1.

Chair Suesser agreed that Upper Deer Valley was made for this type of Fractional Ownership, but she did not want to see it in the more residential areas like Parkview and Jupiter because it would remove housing stock from locals who live in town. Commissioner Kenworthy agreed.

Commissioner Hall stated that the Pending Ordinance expires in April, so they would likely want this before the City Council in March; therefore, the Commission should take action on this in February. Assistant Director Ward advised that they planned on having a public hearing on February 22, 2023. Chair Suesser agreed with Commissioner Hall's comments.

Commissioner Hall reiterated her support for Option 3 because she would rather push it to Deer Valley, but she would also support Option 1. She would also be agreeable to carving out an exception for HOAs who want to opt in or opt-out. She felt the Fractional Use homes should get Administrative Conditional Use Permits because she felt it made sense to have a vetted process. She felt there was pretty good consensus on the minutiae at the last meeting, and asked the Commissioners to revisit their notes prior to the February 22nd meeting.

Mr. Harrington stated they could come back with an option that would be more restrictive along the lines of what Commissioner Sigg discussed and an Option 3 that would look at further restrictions in the RD-M area where they would consider down below as well, and that would keep the Deer Valley option on the table.

Assistant Director Ward asked if the Commission wants one of the options to include a portion of Lower Deer Valley if Option 1 were more restrictive and the RD-M areas were removed and would only include Upper Deer Valley. Commissioner Johnson answered yes.

Assistant Director Ward stated that they would put the General Commercial in Bonanza Park on hold unless it involved a hotel, and the Historic Commercial Business and Historic Recreation Commercial, so it would allow for uses along Main Street.

Chair Suesser asked if King's Crown was a residential development. Assistant Director Ward stated it was in Resort Commercial, so the uses would be allowed, except for within those units that are deed restricted.

7. ADJOURN

MOTION: Commissioner Hall moved to ADJOURN.

The meeting adjourned at approximately 9:40 p.m.

Approved 02.08.2023

An aerial photograph of a mountain town, likely Park City, Utah, covered in a thick layer of snow. The town is nestled in a valley, with snow-covered mountains rising in the background. The houses and buildings are densely packed, and their roofs are covered in white snow. The overall scene is serene and wintry.

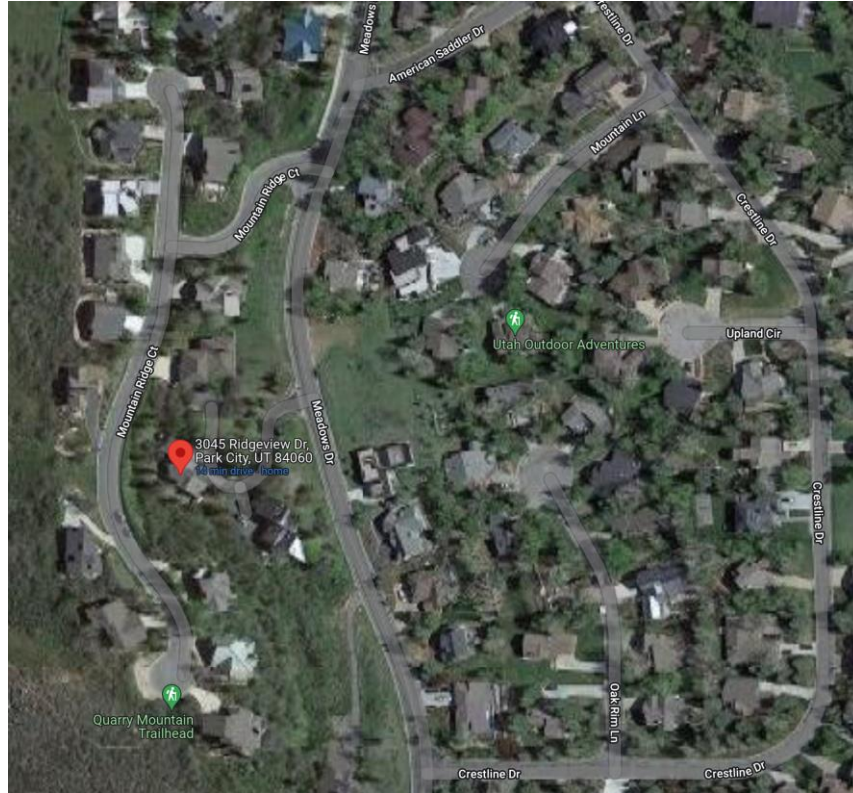
3045 RIDGEVIEW DRIVE

CONDOMINIUM PLAT AMENDMENT

PL-22-05360
January 11, 2023
Planning Commission



3045 RIDGEVIEW DR



BACKGROUND

3045 RIDGEVIEW DR

- On August 26, 1982, the City Council approved the Ridgeview Townhouse Condominium Plat.
- Plat note dedicated Common Space as a Public Utility.
- Unit 3-B was not built as specified on the Plat with expansions into Common Areas.
- 2018 Landscaping Permit showed deck already existed.
- August 2022, building permit requested, Plat Amendment required.
- August 24, 2022, Plat Amendment submitted.
- Conditional Building permit issued.



The architectural drawings for the proposed 10-unit townhome development at 1000 17th Avenue include the following components:

- FLOOR PLAN - UPWELL "B" TYPE UNIT (TYP. UNITS 3-B AND 4-B):** Shows the layout of a typical unit with dimensions and ownership designations. Red circles highlight specific areas.
- LOWER LEVEL:** Shows the lower level of the unit with dimensions and ownership designations. Red circles highlight specific areas.
- SECTION - UPWELL "B" TYPE UNIT (TYP. UNITS 3-B AND 4-B):** A cross-section of the unit showing the roofline, floor levels, and ownership designations. Red circles highlight specific areas.
- UPPER LEVEL:** Shows the upper level of the unit with dimensions and ownership designations. Red circles highlight specific areas.
- ELEVATIONS:** Shows the exterior elevations of the unit, including the front, side, and rear. Red circles highlight specific areas.
- OWNERSHIP DESIGNATION:** A legend defining the ownership types: Private Ownership (hatched), Limited Common Ownership (cross-hatched), and Common Ownership (stippled).
- PRIVATE OWNERSHIP AREA TABULATION:** A table summarizing the ownership areas for each unit type.
- SECTION - UPWELL "A" TYPE UNIT (TYP. UNITS 3-A AND 4-A):** A cross-section of a typical unit showing the roofline, floor levels, and ownership designations. Red circles highlight specific areas.
- LOWER LEVEL:** Shows the lower level of the unit with dimensions and ownership designations. Red circles highlight specific areas.
- SECTION:** A cross-section of the unit showing the roofline, floor levels, and ownership designations. Red circles highlight specific areas.
- OWNERSHIP DESIGNATION:** A legend defining the ownership types: Private Ownership (hatched), Limited Common Ownership (cross-hatched), and Common Ownership (stippled).

ANALYSIS

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- The proposal to amend the plat to convert common area to private and limited common complies with the Subdivision Procedures outlined in LMC Chapter 15-7.1.
 - a) There is Good Cause for this plat amendment because it resolves existing non-conformities and brings the property into compliance.
 - b) No Public Street or Right-of-Way is vacated.
 - c) A Public Utility Easement will be vacated.

ANALYSIS

3045 RIDGEVIEW DR

- The proposal to amend the plat to convert common area to private and limited common area complies with the Residential Development (RD) Zoning District requirements outlined in LMC Chapter 15-2.13.



ANALYSIS

3045 RIDGEVIEW DR

- The proposal, as conditioned, complies with LMC § 15-3-6, Parking Ratio Requirements.
- Unit 3-B has a garage that is 23 feet x 23.5 feet. A two-car garage is defined by code as 20 feet wide by 20 feet deep.



DEPARTMENT REVIEW

3045 RIDGEVIEW DR

- The Development Review Committee reviews the application on January 3, 2023 and did not identify any issues.
- The Planning Department, Engineering Department, and City Attorney's Office reviewed this application.



PUBLIC INPUT

3045 RIDGEVIEW DR

Staff did not receive any public input at the time the report was published.



PUBLIC NOTICE

3045 RIDGEVIEW DR

Staff published notice on the City's website and the Utah Public Notice website, and posted notice to the property on December 22, 2022. Staff mailed courtesy notice to property owners within 300 feet on December 22, 2022. The Park Record published notice on December 24, 2022.



RECOMMENDATION

3045 RIDGEVIEW DR

(I) Review the proposed Ridgeview Townhouse Condominiums First Amendment – Amending Unit 3-B, (II) hold a public hearing, and (III) consider forwarding a positive recommendation for City Council’s consideration on February 16, 2023, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in Draft Ordinance.

