

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JANUARY 8, 2020

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO: Planning Director Bruce Erickson; Hannah Tyler, Planner; Alexandra Ananth, Planner; Planner; Rebecca Ward, Planner; Mark Harrington, City Attorney

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ROLL CALL

Chair Phillips called the meeting to order at 5:35 p.m. and noted that all Commissioners were present. Commissioner Hall would be leaving the meeting early.

APPROVAL OF MINUTES

December 11, 2019

Commissioner Thimm referred to page 5, fourth paragraph, and changed contractor to **contract**, to correctly read "Commissioner Thimm asked about the value of the **contract**."

MOTION: Commissioner Sletten moved to APPROVE the Minutes of December 11, 2019 as amended. Commissioner Van Dine seconded the motion.

VOTE: The motion passed unanimously. Commissioner Suesser abstained since she was absent from the December 11th meeting.

PUBLIC COMMUNICATIONS

There were no comments

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Erickson reported that the Planning Commission would have hold their second meeting this month on January 22nd.

Director Erickson stated that the Planning Commission should expect to see many LMC Amendments coming forward. The Planning Department was considering the possibility of scheduling a special meeting in February to address LMC issues only. He noted that LMC matters are Legislative and the Commissioners are able to discuss

LMC issues with the Staff on a different level than something like a CUP. Director Erickson remarked that the LMC amendments relate to housing issues, Historic District matters, MPDs, and other issues. A third meeting in February may be necessary in order to accomplish these matters consistent with the City Council direction. At this point, the date for a special meeting had not been established.

Chair Phillips believed that certain individuals on the Planning Commission would like to delve further into issues that pertain to the LMC. He requested scheduling a work session where the Planning Commission could look at their specific goals, objectives, and priorities; and what they collectively would like to work on in terms of the Code. Chair Phillips thought a work session would be a good forum to have that discussion and to express their individual thoughts.

Director Erickson remarked that the Planning Commission specifically asked the City Council to give direction on rights-of-way and encroachment agreements. He stated that the Staff would bring back that direction as Code. Other issues on how to handle MPDs would come back as a work session item to work through the nuances before redlining the language. Director Erickson noted that the Housing amendments on the agenda this evening need to move forward.

Chair Phillips clarified that his request for a work session was not related to any of the proposed amendments. It is more to create an opportunity to talk about different portions of the Code and set priorities.

Commissioner Suesser referred to their request for direction from City Council concerning the rights-of-way. She understood from listening to the City Council that Councilman Henney suggested that Section 15-3-5 of the LMC would need to be revised or removed from the Code. Based on an earlier discussion, she did not believe that was the direction the Planning Department was going.

City Attorney Harrington replied that it had already been noticed and was scheduled on the Planning Commission agenda for the January 22nd meeting. Commissioner Suesser stated that in a conversation with Director Erickson prior to this meeting, she understood that the Planning Department was recommending that building in platted City rights-of-way would no longer be a conditional use permit. City Attorney Harrington stated that he was unaware of their conversation, but the Staff report was still formative. This was not a simple manner in terms of any construction in right-of-way versus the ones that occur in the frontage. He explained that platted unbuilt rights-of-way exist parallel to built rights-of-way. They were parsing three or four different types of things that currently encroach into unbuilt right-of-way. Mr. Harrington stated that the provision itself regarding the CUP would come back to the Planning Commission quickly with a

proposal to completely remove it from the Code or making clear which of the four types is being discussed.

Director Erickson apologized if he misspoke. He clarified that the intention is to do a better job of protecting platted unbuilt rights-of-way and not generally permitting a platted unbuilt right-of-way given the four types. For example, the grid system between Woodside and Norfolk or between Empire and Norfolk would have greater protections and be in the political process, as opposed to the conditional use process which is an allowed use if it can be mitigated. Director Erickson emphasized that the process for going into the rights-of-way will be more rigorous.

Commissioner Suesser thought she may have misunderstood. She asked if the intention was to potentially consider removing the driveway standards for private driveways within platted unbuilt streets. Director Erickson replied that it was part of what was being eliminated.

Chair Phillips asked if the other Commissioners concurred with his request for a work session and whether they thought it would be worthwhile. Commissioner Sletten favored the work session; however, he thought it would be helpful to see a comprehensive list of what the City Council had already sent to the Planning Department to avoid being redundant. The other Commissioners concurred. Director Erickson reiterated that a special meeting in February would focus only on the LMC.

Commissioner Sletten disclosed that the applicant for 802 Empire is a personal friend. His association would not affect his ability to discuss and vote on the item this evening and he would not be recusing himself.

Commissioner Sletten disclosed that he would be recusing himself from 322 Park Avenue due to a business relationship with the applicant.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

5.A. Land Management Code Amendment for Master Planned Development in LMC 15-6. (Application PL-19-04400)

Planner Hannah Tyler introduced Jason Glidden, the City Housing Development Manager.

Planner Tyler reported that in 2018 the City Council gave Staff direction to pursue LMC Amendments for affordable housing, because the Council set Housing as a critical

priority. The goal was to specifically deliver 80 units by 2026. It is an aggressive goal and the City Council wanted to make sure the LMC enabled both public and private entities to pursue affordable housing and to make sure all the units are captured regardless of what type of development occurs. Planner Tyler noted that the LMC Amendment came to the Planning Commission and the Commissioners forwarded a positive recommendation to the City Council. After it reached City Council, the Council wanted a third party to review the proposed LMC Amendment to determine whether it would actually work.

Planner Tyler stated that in 2019 the City retained Cascadia Partners as a consultant to review that section of the Code. Cascadia Partners looked at all of the town and the development pattern; and determined the economic feasibility of developing affordable housing and what was needed to incentivize even more. Cascadia Partners presented the final report to the City Council in a work session. The City Council then gave Staff direction to pursue specific items within that LMC Amendment. Planner Tyler noted that some of those were the same as what was proposed in 2018. The City Council also agreed to additional amendments that were recommended by Cascadia Partners.

Planner Tyler stated that the amendments were listed in two different columns. One column was the LMC Amendments before the Planning Commission this evening. Those amendments were specific to zone required setbacks, open space, and matching the affordable housing parking to that of a regular MPD. The Staff will come back with more study, a possible third party review, a larger community process on potentially increasing building height in specific areas, and further parking reductions or alternative parking requirements. Planner Tyler recognized that the last two items are bigger issues that require more community involvement and important conversations.

Planner Tyler reviewed the three categories before the Planning Commission this evening. The more complicated amendments would be presented at a later meeting.

Chair Phillips understood the amendments were a direct result of having the consultant's report. Planner Tyler answered yes. Chair Phillips was under the impression that the Planning Commission would see the entire study after it was reviewed by the City Council. He asked if the Commissioners would ever get a full presentation of the results. Planner Tyler understood that the Planning Commission had been invited to all the City Council work sessions.

Director Erickson remarked that the City Council tried to do a joint work session and everyone was noticed. He also thought the study was sent to everyone in December. Director Erickson pointed out that the presentation this evening was missing a bullet point regarding accessory dwelling units, which will come back to the Planning

Commission. It was not part of the discussion this evening because there was ongoing discussion about the growth of nightly rentals and stripping accessory dwelling units out of the marketplace. Director Erickson emphasized that the City Council wanted the Planning Commission to focus on the first three items this evening. One reason for suggesting a special meeting in February is to start moving forward on the other items forward correctly.

Director Erickson encouraged the Commissioners to notify Jessica Nelson or him if they had not seen the Cascadia report and it would be resent. Commissioner Kenworthy noted that the report was on the December 5th audio link.

Director Erickson explained that the City Council received the report and the Planning Department did their best to deliver it to the Planning Commission. The City Council provided policy direction to come back with Code changes, and the Staff was in front of the Planning Commission with Code changes consistent with the City policy. There was an opportunity for the Planning Commission to review the amendments and provide input before it goes back to the City Council for approval based on their recommendation.

In terms of the long-term plan for the MPD, Planner Tyler noted that the current MPD section contains a master planned development subsection that is specific to all master planned development. A subsection of that is just for affordable housing. The Staff was considering the idea of just creating one section and having different requirements for affordable versus non-affordable. This would avoid having to flip back and forth through pages as people currently do because one section references another section.

Planner Tyler commented on the Zone Required Setbacks. Currently, the affordable housing MPD states that you shall use the requirements of regular MPDs. Therefore, the setbacks live within the requirements of the regular MPD. This setback change would be subject to all Master Planned Developments whether affordable or market rate.

Planner Tyler explained that Cascadia Partners analyzed parcels ranging from a half acre to two acres in the Historic Residential District, the Recreation Commercial District, and the General Commercial District. The City Council did not want to change the Historic Districts and the Staff agreed. The setbacks are clear, the footprint calculation is good, and it can be easily regulated. They also want to maintain the current development pattern in the Historic District. Planner Tyler outlined the current setback requirements for MPDs. Greater than an acre requires a 25-foot boundary setback. Cascadia Partners found that most of the infill parcels will be two acres or less. Planner

Tyler stated that some parcels greater than an acre are considered infill and are required to have the 25-foot boundary. Cascadia Partners found that this ultimately results in incompatible development because if there is a consistent development pattern in a specific zone, suddenly there would be a 25-foot setback inconsistent with the neighbor next door. Instead of having a discretionary requirement, the Staff was proposing to add predictability to the Code by allowing a project on less than two acres to use the zone required setbacks, but with no further exceptions. Planner Tyler remarked that the intent is to create consistency with the development pattern, knowing that future infill development is coming for both the private sector and affordable housing.

Director Erickson clarified that the proposed amendment would take discretion out of the LMC and make the requirements clearer for a developer who wants to do housing. Director Erickson pointed out that regular MPDs are required to have 60% open space and 25-foot boundary setbacks. It was designed for the large ski area projects and shopping centers. It was not designed for smaller infill projects.

Director Erickson remarked that an affordable housing project is required to have 40% open space under the current zoning; and an infill project requires 30% open space. The Staff was considering a reduction in the open space percentages. He noted that setback counts as open space. If they calculate mass using setbacks, the result will be x-amount of open space, regardless of the zone. Director Erickson emphasized that the intent of these amendments was to clarify and reduce the discretion on smaller projects. He believed a key finding from Cascadia Partners was that the MPD process was designed for large projects and not for infill.

Commissioner Hall, Phillips, and Thimm were comfortable with the proposed amendment regarding setbacks.

Commissioner Suesser asked if the MPD on Deer Valley Drive had 25-foot setbacks. She clarified that she was trying to visualize a 25-foot setback. Planner Tyler stated that the setbacks for Woodside Park Phase I successfully fit in with the context of the neighborhood for several reasons. Planner Tyler thought Woodside Park Phase I was a good example of rather than requiring a 25-foot setback, to instead keep the project consistent with the relationship of the surrounding historic structures on the street. The goal is to keep these projects from becoming an eyesore or from looking too different from the neighbors. Whether affordable or market rate, a master planned development should fit in when it is infill.

Commissioner Kenworthy like the proposed amendments. He wanted to make sure this would push the line closer to public/private partnerships because that will be necessary

to obtain these units. Commissioner Kenworthy expressed his hope that the public/private sector starts working because it is important.

Commissioner Sletten recalled from his time on the Blue Ribbon Commission that they will eventually need to change the height restrictions or allow modifications. Commissioner Kenworthy agreed. Commissioner Kenworthy believed a parking reduction would also be necessary. He looked forward to having the opportunity to discuss both issues.

Planner Tyler commented on parking an open space. She reported that currently the Master Planned Affordable Housing Development requirement is one parking space per bedroom, which is far greater than any other development type in Park City. The Staff was proposing to only require the developer to meet the normal off-street parking requirements in 15-3 as required by all other MPDs.

Commissioner Hall was comfortable with the proposed amendment.

Commissioner Thimm noted that page 60 of the Staff report talked about reduction in parking; and asked if the language inferred that a parking analysis could be done to further reduce the parking. Planner Tyler replied that it was Section 2, which is currently allowed for all MPDs. Commissioner Thimm noted that items a) through d) needed to be followed in order to achieve the parking reduction. He suggested adding item e) to state "If a parking analysis determines that such a reduction does not adversely impact the immediate neighborhood". He thought the analysis itself should make that finding. Chair Phillips favored the added language.

City Attorney Harrington asked if the suggested change should also be added to the regular MPD section to keep the sections consistent. Secondly, he thought it should be a new item g) under Subsection 1; rather than adding it to Section 2 which talks about the fee-in-lieu after the Planning Commission makes the determination.

Commissioner Thimm was comfortable adding it as item g) under Section 1.

Director Erickson stated that in MPDs there are conditional use requirements to address parking impacts to the neighborhood, which is a control mechanism on the items. City Attorney Harrington agreed that the added language duplicates the general standard language. The Staff will make the language more specific than just general harm. He believed they understood the gist of Commissioner Thimm's request.

Commissioner Hall asked if they were opening up the LMC for MPDs in general. City Attorney Harrington stated that because the Planning Commission will be discussing

the MPD over the course of the next three meetings, it will come back separately because that section was not noticed for discussion this evening.

Commissioner Suesser commented on the 15-6-5c setbacks. She referred to page 51 of the Staff report and the proposed language for setbacks. She read, "The result is if the parcels less than 2 acres comply with the underlying zone required setbacks". Based on that language, she asked if Items 2 and 3 should be for parcels less than 2 acres in size. Planner Tyler replied that they did not want to address the Historic Districts and those are specific to Historic Districts.

Commissioner Suesser wanted to know what happens if a parcel is an acre and a half. Planner Tyler stated that the developer would need to request a reduction and the Staff would need to deem that it was not impacting the neighborhood or the historic district. She noted that the direction from the City Council was not to affect the historic districts. The Staff was willing to keep that more discretionary because it depends on so much.

Planner Tyler commented on open space and noted that it was specific to affordable housing projects. She stated that the current MPD for affordable housing requires 50% open space with the opportunity to request a reduction to 40%. He reported that Cascadia Partners did an analysis and found that the open space requirement was high. In addition to adding predictability and creating a standard, they recommended reducing the open space. The City Council gave the Staff direction to allow the reduction. Planner Tyler stated that the Staff was proposing a reduction to 30% open space for affordable housing projects with at least 15% being usable open space. She noted that a definition for "usable" was provided. They would like to allow it to be landscaped or hardscaped; knowing that some hardscaped areas can still be usable. Planner Tyler presented an analysis of the percentage of lot that is dedicated to setbacks for both the RC and GC zones. The analysis was done for one acre and two acres. She wanted the Commissioners to understand how much of a lot is taken up by setbacks alone. The goal was to create communal areas or pocket parks that are usable, in addition to the setbacks, because in most cases setbacks are not usable. The idea is to encourage internal areas to be usable, similar to Woodside Park Phase I or 1450/1460 Park Avenue. The City Council, the consultant, and the Staff find that to be very valuable.

Planner Tyler asked for comments on the definition or the reduction to 30%; know what the setbacks are in the zones and consistent with projects that may not trigger an MPD. She reiterated that the size of a lot and the open space covering will be the same as what they see on the neighboring parcels.

Chair Phillips was comfortable with the proposed changes.

Commissioner Thimm read from page 54 of the Staff report under Open Space, "Off-site amenities such as playgrounds, trails, recreation facilities, bus shelters, etc. are encouraged". He asked if off-site amenities could count towards the open space requirement. Director Erickson noted that there was some discussion among Staff as to whether that should say on-site or off-site. He remarked that the Code currently reads off-site and there was some confusion as to what that means. Director Erickson reiterated that the language was designed for a large-scale MPD. For example, Deer Valley Lakes would be usable open space for everyone in Deer Valley, and not necessarily on a private condo plat. That is different than the one-acre, two-acre projects where they want to see additional on-site amenities. Director Erickson stated that he and Planner Tyler were working on additional clarification.

Commissioner Thimm was concerned about someone being able to construe the language and use it say if they park across the street, they could provide zero open space. Planner Tyler stated that because the language exists in the Code, she was looking for direction from the Planning Commission on whether it should say on-site. She thought that could be a simple fix.

Commissioners Suesser and Thimm preferred to change the language to on-site.

Commissioner Hall stated that when doing numerous affordable housing developments that are adjacent to each other in some area in Old Town, she asked if they could share an off-site adjacent parcel as open space for the adjacent developments. Planner Tyler used 1450/1460 Park Avenue as an example. She did not believe language was currently built into the Code for sharing resources. She pointed out that 1450/1460 abuts City Park. That project did not go through an MPD, but if it had, they would have been required to provide some level of open space despite being adjacent to the Park.

Commissioner Thimm stated that even if a project is allowed to use adjacent open space, the project should still be required to provide at least half of the required open space on site.

Jason Glidden, City Housing Manager, suggested allowing a reduction in the usable open space percentage if there are adjacent amenities, rather than the actual open space. Commissioner Thimm was not opposed to that idea as long as it was discretionary.

Commissioner Hall stated that in looking at the numbers to achieve the affordable housing goal, she thought they needed to be more aggressive in the Code as an effort meet that goal. Her initial thought was to eliminate the usable open space because it

creates a higher barrier for reaching the affordable housing goal. Commissioner Hall stated that personally, she places a higher priority on achieving the affordable housing goal than on having specific restrictions for each small affordable housing development.

Commissioner Kenworthy asked if there were any public/private projects currently ongoing. Planner Tyler answered no. For that reason, Commissioner Kenworthy agreed with Commissioner Hall. There are no public/private partnerships and it is important to encourage that in order to achieve affordable housing.

Mr. Glidden noted that the Cascadia report recommended 15% open space, which can be satisfied with the setbacks and allow for more developable space.

City Attorney Harrington suggested adding "or" to one sentence to read, "Thirty percent open space with at least 15% usable open space, excluding setback areas, **or** on-site amenities such as playgrounds, trails, recreation facilities, bus shelters, or equivalent amenities. The Planning Commission could decide whether the on-site amenities proposed are equivalent to the 15% usable open space.

Commissioner Hall preferred to follow the 15% recommendation in the Cascadia report to fit as many affordable housing units as possible. Commissioners Kenworthy, Sletten, and Thimm agreed. Chair Phillips found it acceptable since it was written in the consultant's report. Planner Tyler asked if the Commissioners go with the 15% open space, whether they wanted to set a minimum of usable space; or eliminate it knowing they will reach it with the setbacks. Commissioner Thimm believed usable open space is more valuable than setbacks or unusable open space. He would like at least half of the open space to be usable. Commissioner Thimm thought that encouraging some amount of private open space in close-quartered urban settings is a good thing. He encouraged the Planning Commission to encourage private open space in the form of patios and balconies, not exceed half of the open space requirements, to be counted.

Planner Tyler noted that currently balconies are not counted in regular open space or as usable open space. She asked if the Planning Commission wanted to add it to the open space definition. Commissioner Thimm personally thought it should be added. He asked if the usable open space allows a roof deck to be counted. He also thought a roof deck was valuable open space.

Director Erickson explained that the intention of usable open space was to consider roof decks, with the caveat that it could not be restricted to a private owner. Usable open space was designed for a community benefit, in lieu of an allocation of a City resource for recreational use. If the open space is removed from the project, they would be allocating a City resource of recreation in some other location. It would not

contribute to the community because they are less likely to see people in the park. Director Erickson pointed out that Library Park contributes to the community because the neighbors at 1450/1460 and Woodside Park Phase I can be seen. If open space is removed from a project, people living in that project may or may not use the off-site amenity. Director Erickson stated that he and Planner Tyler would revisit the definition of open space and the relationship of open space to the required setbacks. Director Erickson thought they could reduce the setbacks easier than reducing the usable open space. However, he was willing to listen to the argument for doing so.

Director Erickson suggested that the Planning Commission forward a recommendation to the City Council on the reduction; and give the Staff the opportunity to work on the language. Director Erickson pointed out that private open space is never counted as open space in a condominium project because it is private to the owner and not part of the common space.

Commissioner Thimm thought that in this case, including it as a portion of the open space should be encouraged because they have a healthier community when people have these types of spaces. Director Erickson was willing to consider it as long as it is a community benefit. He needed more time to think about including private spaces for a private owner.

Commissioner Sletten thought a rooftop deck could be identified in the plat as limited common area and achieve the same goal. Director Erickson agreed, which is why the Staff included the hardscape language and as long as it benefits the neighbors.

Commissioner Hall stated that if the goal is to achieve more affordable housing, the requirements should be as relaxed as possible. If the Cascadia Report recommends 15% open space, she believed that was sufficient. Commissioner Hall remarked that her preference would be to say, "A minimum of 15% open space. Open space is not utilized for streets, roads, and parking area". That language would enable those who intend to provide an affordable housing project to have the greatest advantage to actually build affordable housing.

Director Erickson thought this should be discussed in a larger conversation. He stated that one of the missions is to not negatively impact a neighborhood with an affordable housing project. They do not want residents in an affordable project to be bad neighbors or to stick out as being different. Director Erickson thought the Planning Commission may need a larger conversation about who is actually regulated under the Affordable Housing Guidelines and who is not regulated under the Guidelines. The City Council set a standard of 800 units; but, only a certain proportion of projects in town are regulated to deliver that number of affordable units. Director Erickson stated that a

substantial portion of town is not required to deliver affordable units. Director Erickson suggested that a better conversation for the Planning Commission would be to look backwards at the regulations and say 20% is not enough in a major MPD; and a major redevelopment project may need to live up to certain standards. Starting 25 years ago, the big developers are required to provide affordable housing. On the demand side the City was not doing a good job of regulating; and they were doing their best on the supply side to try to deliver these affordable units. The City was considering asking for additional information from a consultant to refine the open space and parking numbers a little more. Director Erickson stated that he would be more likely to agree with Commissioner Hall in a greenfield project like Park City Heights, but he struggled with it for an infill project in a neighborhood.

Commissioner Thimm asked about the process and whether the issues still being discussed by Staff would come back to the Planning Commission. Director Erickson replied that the Planning Commission would make a recommendation to the City Council and the Council will either ask the Staff to revise the proposed amendments; agree with the recommendations from the Planning Commission; or direct the Staff to go back to the Planning Commission for additional analysis on this particular section.

Commissioner Kenworthy asked what percentage Director Erickson would recommend. Director Erickson thought the presentation by Planner Tyler showed the effects of setbacks in the open space calculation in the two zones. He did his own calculations in the RD zone, the Estate zone, and the Single-Family zones and reached the same percentages. He stated that if it is a pure infill affordable housing project with the required setbacks, it would still be within the ranges shown based on lot size. Director Erickson explained that the 30% number comes from a combination of the setbacks and usable open space. If the open space is reduced, they could possibly lose the usable open space. Commissioner Thimm was not in favor of losing usable open space.

Commissioner Suesser referred to the picture on the right side of the screen; and asked if it was considered usable or open space. Planner Tyler replied that it was usable open space. She pointed out that someone would have the capability to throw a baseball, which is meaningful communal open space that Cascadia Partners talked about in their report. Commissioner Thimm remarked that if it were sloped with boulders and trees, it would be beautiful open space but not usable.

Director Erickson understood that the Planning Commission was considering additional recommendations to the City Council to consider additional changes to the total amount of open space in an affordable MPD. Commissioner Hall reiterated that her preference

was to have more leniency for affordable housing in order to achieve their critical priority. She proposed a 15% minimum.

Chair Phillips concurred with the 15% minimum; however, he would leave the other portion unchanged because he did not want the pendulum to swing too far. Chair Phillips believed 15% moved the needle in the right direction, but not too far.

Commissioner Suesser stated that her concern with requiring at least 15% of usable open space is a situation where there is not enough area to landscape and create a communal place to throw baseball, and open space is paved over in order to hit the 15% minimum usable open space.

Planner Tyler stated that based on her measurement, the percentage of the green space on the lot on the right side of the screen was 5% of the lot. It is just the green area and not the sidewalk around it. If the Commissioners were to require a section of the open space to be usable, this was how 5% would look.

Commissioner Suesser preferred to keep the 30% and require at least 15% to be usable. Commissioner Thimm thought 30% was excessive based on his professional planning experience. He believed 15-20% was a noble goal, but he would not want to do it at the expense of losing all the usable open space. Chair Phillips concurred with Commissioner Thimm.

Commissioner Kenworthy suggested a compromise of 20%. Commissioner Thimm was not opposed to 20%. Commissioner Kenworthy agreed with Director Erickson about being careful not to lose the balance in the matrix.

Commissioner Suesser asked if the consultants recommended the ratio. Planner Tyler replied that the consultants recommended 15%. Chair Phillips believed the consultants made their recommendation based on their professional expertise.

Director Erickson stated that one reason for the usable open space equation was the fact that it was very difficult to look at what was actually open space. For example, at the MARC it is unclear whether the tennis courts or the pool count as open space. The Staff thought it was necessary to say that a portion of the lot could be hardscaped to make it functionally developed recreation space as opposed to just leaving it greenspace. Director Erickson noted that the Staff struggled with the definition based on previous open space conversations.

Director Erickson suggested that a potential compromise could be somewhere between 13% and 22% on small infill lots. They could also look at 25% open space, which

includes all the setbacks, and then reduce the minimum usable open space into a 5% to 10% range. Commissioner Hall did not think it should be that complicated. She suggested a 20% minimum and not complicate it with the definition of usable space. Commissioner Thimm agreed with 20% with half of it being usable.

Director Erickson stated that if there was Board consensus for 20%, the Staff would take that recommendation to the City Council.

Commissioner Van Dine preferred to be more specific and define the usable open space rather than just a blanket definition of open space.

Commissioner Kenworthy was comfortable with the compromise. From his reading of the report, the needle will move more with the height restrictions and the parking. Commissioner Sletten concurred.

Mr. Glidden asked for clarification because he was struggling with the usable open space. He noted that everyone worked together but they all had differing opinions. The result enabled this to come before the Planning Commission this evening. Mr. Glidden stated that like Commissioner Hall, he thought it needed to be 15% to move the needle at all. Mr. Glidden asked if they were to have a setback of 10% around a space and added grass, whether that would be considered usable.

Commissioner Hall thought it was so complicated that she would vote to not have it. Commissioner Thimm stated that if they end up with a 2:1 slope for all the open space on the lot and it is totally unusable, they will not achieve the goal of creating a healthy community.

Mr. Glidden clarified that his point was that usable open space should be clearly defined to avoid any confusion. He liked the idea of counting private areas or roof decks as usable open space. It allows more flexibility and spaces to build on, but still creates open space or private areas for leisure times. Mr. Glidden emphasized that the definition of usable open space is very important.

Director Erickson believed a basic planning principle was involved. Whether or not they like the definition of usable open space, it is a high function in creating a community and it needs to occur. He recognized the definition may not be perfect and he agreed with the need to provide balance and make things more allowable and understandable to the development community by removing some of the discretion. However, at the same time they need to be community builders. The goal is to be inclusive and to protect the current neighborhoods. They were trying to develop social equity where everyone has a chance to have a backyard; and they were changing the functional

nature of backyards by going to a higher density, smaller lot configuration. Director Erickson stated that he was arguing the best he could for community building; and at the same time being inclusionary in housing. For that reason, they drafted the usable open space definition. If the Planning Commission was not comfortable with the definition, the Staff could revise it based on their comments.

Chair Phillips thought the definition for usable open space should be revised; however, he agreed with the importance of having a definition.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

Commissioner Suesser asked Commissioner Thimm whether he could consider planting lawn within the setback as usable open space. Commissioner Thimm replied that based on his personal planning knowledge, usable open space should be land that has a slope of less than 5% and a dimension of not less than 10-feet in any direction. He thought there should be some parameters in the definition.

The Commissioners discussed various buildings and amenities that could be built to meet the Code and still achieve the goals. Commissioner Hall was concerned about adding expensive amenities that would prohibit the project from being affordable housing. Chair Phillips pointed out that not every site is suitable for affordable housing. Commissioner Hall agreed, but she thought they should encourage as many options as possible. Chair Phillips believed they were doing that; but at the same time, they need to be careful about negatively impacting the existing neighborhoods. Commissioner Hall clarified that the City paid for a consultant study on how to achieve their goal and she thought they should follow their expert opinion.

Chair Phillips re-opened the public hearing at the request of someone who had questions.

Kaitlyn McHugh understood that usable open space was generally programmed space or well-defined space. She believed that opening up less desirable sites for affordable housing, such as a steep slope, is an incentive to take over those spaces. Ms. McHugh thought they could include a roof deck as open space if it is accessible to everyone rather than just one home; or if the amount of private open space per unit is equal. However, to only have open space mandated by a minimal slope that can be utilized

with grass and turf for play in a traditional sense is limiting. Ms. McHugh was pleased that the City was looking for ways to encourage affordable housing.

Ms. McHugh asked for clarification on whether the setbacks count as open space. Chair Phillips answered yes. Ms. McHugh noted that it was a lot of open space with much of it being unusable. She asked if they make the open space 20% minimum and no usable requirement, whether a developer could meet the open space requirement with just the setbacks.

Director Erickson explained that the usable space is supposed to have a function rather than just be greenspace. The idea is to build community with functional spaces such as swing sets, fire pits, tennis courts, etc. Director Erickson stated that the green space is not unusable. Greenspace provides environmental benefits and accommodates snow removal. It also creates space between neighbors instead of a fence. Director Erickson remarked that whether the percentage is right or wrong, the greenspace has a function in community building.

City Attorney Harrington stated that Ms. McHugh was correct. For one acre or less, 20% would just be the setbacks. Ms. McHugh asked if that was in the definition of usable open space. Director Erickson clarified that the open space could be achieved with just the setbacks, and still achieve the functionality of those greenspaces without doing anything additional. Director Erickson believed most of the projects would be on two acres or less and generally as infill. Ms. McHugh asked if that was in the definition of usable space. Director Erickson stated that the definition is an unobstructed portion of a lot, which is landscaped or hardscaped, and developed for active or passive recreational and leisure use. Commissioner Suesser added that usable open space is conveniently located and accessible and open to the project residents.

Chair Phillips closed the public hearing.

Commissioner Kenworthy was comfortable with the compromise of 20% open space with 10% being usable.

Commissioner Sletten still preferred 20% open space without a percentage for usable open space, but he would vote in favor of a compromise by the majority of Commissioners.

Commissioner Kenworthy believed a percentage for the usable portion was important.

Commissioner Suesser thought the Planning Department was going in the right direction with the 30% minimum open space and 15% usable open space. She preferred to keep the Staff recommendation.

Commissioner Thimm was comfortable with 20% open space and 10% of that being usable.

Commissioner Hall preferred a straight 15-20% minimum open space and not complicate it with usable open space.

Commissioner Van Dine was comfortable with the 20% minimum open space and 10% of that amount as usable. Chair Phillips concurred.

Commissioner Hall pointed out that the majority of the Commissioners favored the 20% minimum with 10% being usable. Commissioner Sletten clarified that he was willing to compromise because the other issues would move the needle much more than open space. He thought it was important to forward a recommendation to the City Council and then address the other issues. Commissioner Hall agreed. It is important to move this along and she would vote for a positive recommendation.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council on January 16, 2020 for the proposed LMC Amendments with the following modifications: to consider 20% open space with 10% of that amount as defined usable open space; with direction to the Staff to provide additional definitions identifying specific types of usable open space; and to include the addition of Subsection g) and the change to replace off-site with on-site in the language. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Hall left the meeting.

5.B. 158 Ridge Avenue – Conditional Use Permit – The Applicant Seeks to Obtain a Nightly Rental Conditional Use Permit for the Single-Family Dwelling in the Historic Residential-Low Density Zoning District.
(Application PL-19-04378)

Planner Rebecca Ward reviewed the application for a nightly rental conditional use permit for 158 Ridge Avenue. She noted that the lot was in the tiny triangle area in the

nightly rental zoning map within the HRL zone, which requires this conditional use permit.

Planner Ward reported that currently there are seven active rental CUPs in this zone. The Planning Commission approved the 81 King Road conditional use permit; however, a business license has not yet been secured for that application. If that business license is secured, there could potentially be eight active rental CUPs within the next few months.

Planner Ward stated that 158 Ridge Avenue is approximately 3,000 square feet with three bedrooms. It was constructed in 2018. Planner Ward remarked that of the 16 conditional use permit criteria, the Staff recommended conditions of approval; specifically, to address traffic in the area. She noted that 158 Ridge Avenue is accessed by King Road or Daly Avenue, which are substandard streets. The blue shown on the map identified a driveway that was constructed in the platted, unbuilt Ridge Avenue right-of-way. Because of that driveway, parking, snow storage and other factors limit parking for the area. Planner Ward stated that the private driveway is only 20' feet wide and the City Engineering Department confirmed that with snow removal and other factors, no parking is allowed.

Planner Ward reported that when the property was platted Parcel A was dedicated to the City. The Engineering Department confirmed that no parking was allowed on a small area of the parcel or on Ridge Avenue.

Chair Phillips referred to a previous image showing a truck. He is familiar with that area and noted that it is very inviting to park there because it is City property. It is currently gravel and he suggested that the City plant grass or do other things to discourage parking. Planner Ward believed a no parking sign was posted across the road but none along the other side of the road.

Planner Ward stated that because of the limits to parking and the substandard roads, a condition of approval limits the number of vehicles to two for the nightly rental, with parking in the attached garage or the driveway on-site. She remarked that parking on the platted unbuilt Ridge Avenue right-of-way is prohibited. Parking on Ridge Avenue is also prohibited. Due to the steep slope of the road, Condition of Approval #10 requires that lease agreements notify potential renters of the possibility of bad road conditions. The applicant suggested including a recommendation for all-wheel drive vehicles during the winter months.

Planner Ward remarked that the triangle area with the HRL District is called out in the General Plan as an area for nightly rentals within the community. Since it is within

walking distance to public transit and skiing access, Condition of Approval #11 requires that the applicant provide information about the walkability of the site. Planner Ward stated that additional conditions of approval were added to make sure commercial use is prohibited, that a property management company will manage the property, and that the property complies with the Code; especially 4-5-3, Regulation of Nightly Rentals.

Planner Ward reported on public comment that was received. One of the emails was published in the Staff report as Exhibit E. An additional email dated January 7th was received after the Staff report was delivered. She had forwarded that email to the Planning Commission.

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

Chair Phillips stated that he would like to get better at stating on the record that the Planning Commission received the public input emails and have acknowledged them.

Chair Phillips referred to the eight stars shown on the diagram indicating the nightly rentals, and he thought it was sad to see what is happening to some of the neighborhoods. He noted that in past years the Planning Commission had discussions on limiting nightly rentals. He questioned whether it was a discussion that should come back. Chair Phillips remarked that during that period, the Planning Commission was successful in making one area on McHenry no nightly rentals, which he felt was a major accomplishment. He was unsure if there are other areas in Old Town where that could occur. Chair Phillips pointed out that McHenry was slightly different because the neighbors came to the City with a request to prohibit nightly rentals and there were no existing nightly rentals. Chair Phillips recognized that nightly rentals are a part of Park City and how the town functions. He lived in this neighborhood for 15 years and it has degraded the neighborhood. It changes the community feel by not having year-round residents.

Commissioner Sletten asked Chair Phillips if it degraded the neighborhood because homes were vacant for periods of time. Chair Phillips stated that when he first moved into the neighborhood people lived there full-time and they were neighbors. Over time many of the homes were sold and bought by second homeowners, and they lost the neighborhood feel. Chair Phillips agreed that it was nice to have the homes occupied, which is a benefit of nightly rentals, but the downside is having strangers coming in and out who do not respect the neighborhood the same as permanent residents.

Chair Phillips remarked that years ago the Planning Commission discussed putting a cap on nightly rentals. He was mentioning it again now because recently they have seen a wave of applications for nightly rentals in this same neighborhood.

Chair Phillips emphasized that this applicant would be treated consistent with how they have treated all other applicants requesting nightly rentals in that neighborhood. However, he questioned whether the Planning Commission should have a larger discussion at a later time to relook at nightly rentals and prevent Old Town from turning into a hotel.

Commissioner Suesser believed this property could be distinguished from the other nightly rentals they approved because of where it is located. She did not think it was realistic to think that someone could park in a parking garage and walk to this property as suggested in the conditions of approval. She pointed out that this property was further than the properties on King Road and further from skiing and Main Street than the properties on Sampson Avenue. Commissioner Suesser thought this application was different and could be treated differently than previous applications.

Chair Phillips clarified that he was not suggesting the same result. His comment was about treating this application equally to determine the outcome.

Commissioner Suesser noted that this was a three-bedroom home. She recalled that the previous approvals for nightly rentals were smaller homes. Chair Phillips remarked that the nightly rental they approved a few years ago for 60 Sampson Avenue was a larger home. Commissioner Suesser pointed out that it was also within walking distance to the resort. Chair Phillips agreed that it was closer to the resort for walking, but equal distance for driving and parking. He believed this request was similar to 60 Sampson Avenue.

Commissioner Suesser favored a discussion regarding a cap on nightly rentals. Chair Phillips suggested adding that discussion to the work session they talked about earlier in the meeting. Commissioner Kenworthy agreed that it should be a priority on the work session agenda.

Commissioner Kenworthy was concerned about the infrastructure and driving to the property. He visited the site earlier that day and it was snowing. He lived in the neighborhood for 15 years and it is a very difficult access driving on Ridge and extremely difficult driving down King Road. His concern was public safety and Old Town roads. Commissioner Kenworthy believed there are many reasons why nightly rentals are not allowed uses in many Old Town neighborhoods and are required to come before the Planning Commission.

Chair Phillips opened the public hearing.

William Sundermeier, the applicant, stated that he rarely walks from the house down to Main Street, down to the parking garages, and to the bus areas, because the trolley stop is at the bottom of the hill. It is a steep hill to walk up but not far and he does this on a regular basis. It is a five or ten minute walk to the transit station. He was willing to post it in the house to let people know they could do this. Mr. Sundermeier stated that he walked up the hill today when it was snowy. He has a four-wheel drive vehicle and he was pleased that it was a requirement in the conditions of approval.

Mr. Sundermeier stated that he has been a member at Silver Baron for 15 years and has been part of the Park City community for that time. He moved to this residence because he wanted to get away from the hotel environment. Mr. Sundermeier stated that he was looking at nightly rentals for major holidays when they are not in Park City. Otherwise they live in the house for a couple of months in the winter and a couple of months in the summer. He does not want to be an impact on the community and he fully intends to respect the neighbors. Mr. Sundermeier wanted this to be low impact for the entire community to avoid the churn that he experienced at the Silver Baron Lodge. He is highly aware of the situation and wants to be respectful of everyone in the area.

Chair Phillips closed the public hearing.

Chair Phillips personally believed this application was similar to the previous applications. He believed the Staff heard their comments from one that was discussed a few months ago and those comments were addressed in this recommendation. Chair Phillips could see no reason to deny this application. He thought it was important to determine whether or not additional restrictions were required.

Commissioner Kenworthy asked for the length of a business license. City Attorney Harrington stated that the CUP runs with the property. A business license is renewed annually. Chair Phillips clarified that if the property changes ownership, the CUP for nightly rentals transfers with the property.

Commissioner Kenworthy wanted to know what would happen if during a work session the Planning Commission decided to put a cap on nightly rentals or decided to prohibit nightly rentals in a specific area. City Attorney Harrington stated that they could have a sunset provision for some business licenses for non-conforming uses and nightly rentals would technically become a non-conforming use. If there is no sunset clause, the nightly rentals would be grandfathered in as long as the business license is renewed every year.

Director Erickson noted that based on their comments, Planner Ward had added additional conditions of approval that are not typical. He suggested amending Condition #13 to provide a mechanism for publicly posting the owner or property manager's contact information if the neighbors have issues or if the police are called out on a complaint. Director Erickson revised Condition #13 to require a location to post the contact information for the site where it is accessible to the public. Director Erickson noted that it could be on the property management sign as long as they have a manager to contact.

Commissioner Sletten referred to Condition #10. He understood they were trying to notify the potential renter as much as possible. However, if a family arrives with small children and it is snowing, the likelihood of parking below and walking up with a family is unrealistic. He was unsure how that could be enforced. Commissioner Sletten understood the intent of the condition, but he did not believe there was a level of protection if someone drops off the family and goes down the hill to park. Director Erickson believed it was an attempt to make it transparent to the lessee that they are on a road that may not get plowed. Commissioner Suesser thought it was more about a warning than actually walking up to the site. Chair Phillips thought it might also encourage the lessee to rent a four-wheel drive vehicle. Director Erickson clarified that they cannot control public behavior; but being in the lease agreement makes the renter aware of the situation.

Commissioner Suesser asked if they could require all-wheel drive vehicles during the winter months. She believed it was completely appropriate, even though it creates an enforcement issue. Director Erickson did not think the conditional use provisions would allow that requirement, but he was willing to look into it. City Attorney Harrington stated that the challenge is distinguishing that property from any other temporary invitee. If the road was signed to require all-wheel drive vehicles for all users there would be no hesitation. Commissioner Kenworthy believed the condition of approval would protect the guests because the road is hazardous.

Commissioner Suesser thought Director Erickson's suggestion to include signage for the property management company should be included in Condition #13. City Attorney Harrington added "including notification in the lease of the contact information". He noted that signage is prohibited in the business license section. There can be no signage for nightly rentals on the outside of the property. A sign or placard notification on the inside would be allowed, but they need to be specific that it is internal. Commissioner Suesser suggested that the property management company name and contact information should be part of the business license. Mr. Harrington stated that it already is, but not as clear as what Director Erickson was proposing in terms of

notification. He thought it was better to add it to the condition of approval that it be provided in the lease or on the premises.

MOTION: Commissioner Kenworthy moved to APPROVE the Conditional Use Permit for a nightly rental at 158 Ridge Avenue, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the Staff report and as amended with the change to Condition of Approval #13, that contact information shall be posted in the entry of the home and included in the lease. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously. Commissioner Hall was not present for the vote.

Findings of Fact – 158 Ridge Avenue

1. On November 21, 2019, the Applicant submitted a Nightly Rental Conditional Use Permit application for 158 Ridge Avenue.
2. On November 26, 2019, staff determined the application was complete.
3. On October 25, 2007, the City Council adopted Ordinance 07-74 approving the three-lot King Ridge Estates subdivision (Summit County Recorder Entry 847041).
4. 158 Ridge Avenue is Lot 3 (0.17 acres) of the King Ridge Estates subdivision.
5. The three lots in the King Ridge Estates subdivision are accessed solely over a private driveway that was constructed in the platted, un-built Ridge Avenue right-of-way.
6. 158 Ridge Avenue is located in the Historic Residential – Low Density Zoning District.
7. Nightly Rentals require a Condition Use Permit in the Historic Residential – Low Density Zoning District.
8. The 2,945-square-foot Single-Family Dwelling at 158 Ridge Avenue contains three bedrooms and was constructed in 2018.
9. Potential Nightly Rental occupancy is limited by existing size and emergency escape and rescue opening standards of the International Residential Code.
10. In addition to a Nightly Rental Conditional Use Permit, the owner must secure a Nightly Rental Business License to use the property as a Nightly Rental.
11. The business license application process requires that the Building Department inspect the property to ensure that the property meets all applicable building and fire codes.
12. One of the purposes of the Historic Residential – Low Density Zoning District is to reduce density that is accessible only by substandard Streets so the streets are not impacted beyond their reasonable carrying capacity.
13. 158 Ridge Avenue is accessed by either King Road or Daly Avenue to Ridge

Avenue, which is a substandard street.

14. Six total residences are accessed by Ridge Avenue.

15. 158 Ridge Avenue and the other two properties to the south that are also part of the King Ridge Estates subdivision are accessed over a private driveway that was constructed in the platted, un-built Ridge Avenue right-of-way.

16. 158 Ridge Avenue use as a private residence or Nightly Rental has a minimal change to utility capacity and storm water run-off.

17. On June 10, 2009, the Planning Commission approved a Conditional Use Permit for the construction of the private driveway in the Ridge Avenue right-of-way to access 158 Ridge Avenue and the other two lots in the subdivision. The 2009 Conditional Use Permit includes Condition of Approval 7, which states "[p]arking is restricted on the driveway."

18. The 2009 Conditional Use Permit expired before the private driveway was built.

19. On July 23, 2014, the Planning Commission once again approved a Conditional Use Permit for the construction of the private driveway in the Ridge Avenue right-of-way. The 2014 Conditional Use Permit includes Condition of Approval 12 restricting parking on the driveway.

20. The Engineering Department determined that the private driveway constructed on the Ridge Avenue right-of-way is only 20 feet wide, which does not support both access to the three King Ridge Estate lots and parking.

21. The King Ridge Estates plat dedicated Parcel A to Park City as a public street and right-of-way. No parking is allowed on Parcel A because of turning radius requirements, snow storage, and fire access.

22. Only two parking spaces are available to 158 Ridge Avenue, one in the attached garage and one in the driveway constructed on Lot 3.

23. Ridge Avenue is a steep and narrow street. During weather-related road conditions, access to 158 Ridge Avenue may be limited. During weather-related events, renters may need to park off-site in an approved overnight public parking lot and walk to the rental property. All-wheel drive vehicles are recommended to access the property during the winter months.

24. 158 Ridge Avenue is located within an estimated 10 to 15-minute walk from Main Street.

25. The Upper Norfolk ski runs at Park City Mountain Resort are within walking distance.

26. Fencing is not proposed at this time. No changes to the exterior landscaping are part of this application.

27. No change is proposed for the building mass, bulk, orientation, or location.

28. There is no public Open Space in the King Ridge Estates subdivision. Lot 3 contains a building footprint and paved area of 3,445 square feet. Approximately 47 percent of Lot 3 is landscaped.

29. No signs are proposed.

30. Lighting must conform to Building and Land Management Code standards before a Nightly Rental Business License is granted.

31. No changes to the physical design are proposed.

32. No noise, vibration, odors, steam, or mechanical factors that might affect people and property off-site are anticipated.

33. No deliveries are anticipated.

34. Residential trash pickup for the property is on Ridge Avenue. Trash receptacles must be placed for trash pickup according to Park City Code § 6-1-11, which requires that trash receptacles cannot be set out for collection prior to 6:00 PM of the day before collection. All trash receptacles in the HRL District must be removed from the street as soon as practical after being emptied, and in every case must be removed from the street prior to 11:59 PM the day they are emptied.

35. The 158 Ridge Avenue Nightly Rental shall be managed and maintained by a property management company.

36. No changes to the structure are proposed and no environmental site conditions are present.

37. Goal 7 of the General Plan, Life-Cycle Housing, is to create a diversity of primary housing opportunities to address the changing needs of residents. Objective 7C is to focus future nightly rental units to resort neighborhoods – near Park City Mountain Resort and Deer Valley. 158 Ridge Avenue is within walking distance of Park City Mountain Resort skiing access through Upper Norfolk Avenue.

38. Goal 9 of the General Plan, Parks & Recreation, is to continue to provide unparalleled parks and recreation opportunities for residents and visitors. Objective 9C is to optimize interconnectivity by utilizing bus/transportation services to recreation facilities.

Conclusions of Law – 158 Ridge Avenue

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

Conditions of Approval – 158 Ridge Avenue

1. All standard project conditions shall apply.

2. The applicant must obtain a valid Nightly Rental Business License prior to using 158 Ridge Avenue as a Nightly Rental.
3. Compliance with all building and fire code standards is required as a condition precedent to issuance of a Nightly Rental Business License.
4. All existing and any new exterior lighting shall conform to the City's lighting requirements prior to the issuance of a Nightly Rental Business License.
5. No exterior commercial signs are approved as part of this Nightly Rental Conditional Use Permit. Any future signs on the property shall be subject to the Park City Sign Code.
6. All lease agreements for Nightly Rental shall include language that limits the vehicles allowed at 158 Ridge Avenue to two (2) vehicles that may only park on two (2) on-site parking spaces: one in the attached garage and one on the private 158 Ridge Avenue driveway.
7. Parking on the private driveway constructed on the platted, un-built Ridge Avenue right-of-way that provides access to 158 Ridge Avenue is prohibited.
8. Parking on Ridge Avenue is prohibited.
9. Property management shall place trash receptacles for trash pickup according to Park City Code § 6-1-11, which requires that trash receptacles cannot be set out for collection prior to 6:00 PM of the day before collection. All trash receptacles in the HRL District must be removed from the street as soon as practical after being emptied, and in every case must be removed from the street prior to 11:50 PM the day they are emptied.
10. All lease agreements for Nightly Rental shall include language indicating that during heavy snowfall or bad road conditions, access to the property may be limited and there may be times when renters need to park off-site in a public parking lot and walk to the property. All-wheel drive vehicles are recommended during winter months.
11. The applicant must provide renters with detailed information regarding walkable access to skiing, to Park City's Historic Main Street, to Old Town, and to Park City's free transit service.
12. Nightly Rental of 158 Ridge Avenue prohibits Commercial Uses such as hospitality houses, screening rooms, reception centers, etc.
13. A property management company shall oversee the property and shall maintain the property and landscaping in a manner that shall comply with all City Code and Land Management Code standards. Contact information shall be posted in the entry of the home and included in the lease.
14. The property must comply with Park City Code § 4-5-3, Regulation of Nightly Rentals.
15. The owner understands fully that failure to follow these conditions, the Land Management Code, or the Park City Code could result in revocation of the Business License and/or the Conditional Use Permit.

Chair Phillips re-arranged the agenda and moved to Item 5.D., 1274 Park Avenue Plat Amendment. The applicant and the Staff were requesting a continuation to a date uncertain.

5.D. 1274 Park Avenue – Plat Amendment – The Applicant Proposed Amending the Alpine Retreat Plat to add a Single Car Garage, Accessed from Sullivan Road, with an Upper Level Studio for the Significant Historic Single-Family Dwelling located at 1274 Park Avenue. (Application PL-19-04386)

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

MOTION: Commissioner Thimm moved to CONTINUE 1274 Park Avenue Plat Amendment to a date uncertain. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously. Commissioner Hall was not present for the vote.

5.C. 2784 American Saddler Drive – Plat Amendment – The Applicant proposes Combining Lots 11 and 12 of the Fairway Meadows Subdivision in the Residential Development Zoning District. (Application PL-19-04391)

Planner Ward noted that the applicant for 2784 American Saddler Drive owns Lots 11 and 12 of the Fairway Meadows Subdivision. The existing home is on lot 11. Lot 12 is vacant. The applicant was proposing to combine the lots in order to construct an addition to their home. The property is located in the Residential Development zone. The Code requires the Planning Director to make determinations on the house size, setbacks, easements, and conformance with the Code.

Planner Ward reported that the Planning Director has determined that under the Code the maximum house size for the combined lots would be 8,250 square feet. The setbacks increase and the Staff was requesting to amend Condition of Approval #5 to clarify that the setbacks apply to the new construction that is added to the existing structure. Those setbacks are more restrictive than the zone setbacks.

Planner Ward stated that the application was reviewed by the Development Review Committee, at which time it was understood that there are no utilities in easements that will need to be moved. However, the Code requires the applicant to provide proof to

demonstrate that before the final plat is recorded. That requirement is reflected in Condition #6.

The Staff evaluated the application and found that it conforms with the LMC.

Planner Ward presented a slide with Lots 11 and 12 shown in green. The applicant contacted the adjacent property owner and had submitted consent from those property owners for this application. Consent was not required but it was submitted with the application and was included in the Staff report as Exhibit B. The Staff had also received an email from the neighboring property owner in support of this application.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council with the amendment to Condition of Approval #5.

Commissioner Suesser asked if there was a limit on the number of accessory buildings on the combined lots. She noted that the Staff report identified setbacks for the main buildings and 15' for accessory buildings and detached garage. She asked if they could build another accessory building on the combined lot. Planner Ward understood from the Code that an accessory building could be constructed within the setback. Commissioner Suesser asked if there was a detached garage on the property. Planner Ward answered no; and clarified that the garage is attached to the existing home. She noted that the Code requires the setbacks and if there was a change, a detached garage would need to comply. Chair Phillips clarified that the language was taken from the Code and it was not particular to this application. Planner Ward replied that he was correct.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

MOTION: Commissioner moved to forward a POSITIVE recommendation to the City Council for the plat amendment for 2784 American Saddler Drive, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the Staff report and as amended with the change to Condition #5 to add "or new structure" after the words existing structure. Commissioner Van Dine seconded the motion.

VOTE: The motion passed unanimously. Commissioner Hall was not present for the vote.

Findings of Fact – 2784 American Saddler Drive

1. On December 4, 2019, the Applicant submitted an application to combine Lots 11 and 12 of the Fairway Meadows Subdivision.
2. On December 11, 2019, staff determined the application was complete. 87
3. On March 17, 1992, City Council approved the Fairway Meadows Subdivision (Summit County Recorder Entry 356214).
4. The Fairway Meadows Subdivision Plat prescribes maximum house sizes for each lot.
5. The maximum house size for the 0.39-acre Lot 11 is 5,500 square feet.
6. The maximum house size for the 0.36-acre Lot 12 is 5,500 square feet.
7. Note 8 of the Fairway Meadows Subdivision Plat states that “[m]aximum house sizes on combined lots shall not exceed 150% of the maximum allowed on each lot when averaged.”
8. The combining of existing subdivided Lots into one or more Lots requires a Plat Amendment.
9. Lots 11 and 12 of the Fairway Meadows Subdivision are located in the Residential Development (RD) Zoning District.
10. Single-Family Dwellings are an allowed use in the RD Zone.
11. In the RD Zone, an owner may combine Lots with designated maximum house sizes and achieve approximately 150% of the maximum house size attributed to a particular Lot.
12. The Owner must request an increase in maximum house size prior to or concurrent with the Lot combination plat.
13. Prior to consideration by the Planning Commission, the Planning Director must make a determination on (A) maximum house size; (B) Setbacks; (C) vacation of easements; and (D) conformance with Land Management Code Chapter 15-7, Subdivisions.
14. On December 23, 2019, Planning Director Erickson made the following determinations: (A) the maximum house size for combined Lots 11 and 12 shall be 8,250 square feet; (B) Lot 12 Setbacks shall be as follows: Front – 30’; Rear – 22.5’ for Main Buildings and 15’ for Accessory Buildings and detached garage; Side – 18’; (C) the non-exclusive five-foot utility, slope, and drainage easement along the common Lot line between Lots 11 and 12 may need to be vacated; and (D) the Lots must be legally combined through a plat amendment pursuant to LMC Chapter 15-7, Subdivisions.
15. The proposed Fairway Meadows Subdivision Lot 11 Amendment has been reviewed for compliance with Land Management Code § 15-1-8(H); § 15-1-11(C); § 15-2.13-6; § 15-7.1-3(B); § 15-7.1-6; and § 15-12-15(B)(9).

Conclusions of Law – 2784 American Saddler Drive

1. There is good cause for the Fairway Meadows Subdivision Lot 11 Amendment.

2. The subdivision plat amendment is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the subdivision plat amendment, subject to the conditions stated below, does not adversely affect the health, safety, or welfare of the citizens of Park City.

Conditions of Approval – 2784 American Saddler Drive

1. The City Attorney and City Engineer will review and approve the final form and content of the Fairway Meadows Subdivision Lot 11 Amended Plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the amended plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year, this approval for the plat will be void, unless a request for an extension is submitted in writing and approved by the City Council.
3. All applicable recorded public utility and access easements shall be indicated on the plat prior to recordation.
4. The maximum house size for combined Lots 11 and 12 shall be 8,250 square feet. The maximum house size shall be noted on the final plat.
5. Setbacks for new construction added to the existing Structure at 2784 American Saddler Drive shall be as follows: Front – 30'; Rear – 22.5' for Main Buildings and 15' for Accessory Buildings and detached garage; Side – 18'.
6. If the non-exclusive five-foot utility, slope, and drainage easement dedicated along all lot lines on the Fairway Meadows Subdivision Plat must be vacated to allow construction on the combined Lots, the Applicant must show evidence that the easement can be vacated or relocated without affecting service to the adjacent Lots. The easement relocation agreement must be recorded and/or shown on the plat amendment for the Lot combination.

5.E. 7058 Silver Lake Drive – Plat Amendment – The Applicant Proposes Amending the Area of Disturbance for Lot 1 of the Evergreen Subdivision in the Residential Development Zoning District (Application PL-19-004378)

Planner Ward stated that the applicant was proposing to amend the area of disturbance for Lot 1 in the Evergreen Subdivision that was set when the plat was recorded in 1988 to increase the area from 5,270 square feet to 6,260 square feet.

Planner Ward reported that the existing area of disturbance was shown in orange and the proposed area was shown in green. The proposal increases the area by

approximately 540 square feet. With the required setbacks, the buildable area within the proposed increase is approximately 5,000 square feet. Planner Ward stated that since the Evergreen Subdivision Plat was recorded, the areas of disturbance for a few lots have been increased since that time. Ordinance 92-42 increased Lot 15 by 30%. Ordinance 02-06 amended Lot 23 and relocated a ski easement. When the amended plat was recorded, there was no area of disturbance and it expanded the buildable area to 12,000 square feet. The existing home has a building footprint of approximately 5,000 square feet.

Planner Ward stated that an ordinance was passed to combined Lots 16 and 17. The area of disturbance was eliminated from the plat but a condition of approval limited the house size to 11,000 square feet. The existing home has a building footprint of 5,000 square feet.

The Staff found that the proposal complies with the Residential Development zoning requirements. The City Council passed an amendment to the plat in 1995 requiring any proposal to change the area of disturbance to be approved by the Evergreen Architectural Committee. The applicant submitted the approval by the Evergreen Architectural Committee on December 18, 2019.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the amendment to Lot 1 of the Evergreen Subdivision.

Commissioner Thimm thanked Planner Ward for her clarification this evening. He was curious about the precedence and whether they were maintaining congruence with those precedents.

Chair Phillips opened the public hearing.

There were no comments.

Chair Phillips closed the public hearing.

MOTION: Commissioner Van Dine moved to forward a POSITIVE recommendation to the City Council for the plat amendment for 7058 Silver Lake Drive, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as outlined in the draft ordinance. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously. Commissioner Hall was not present for the vote.

Findings of Fact – 7058 Silver Lake Drive

1. On November 19, 2019, the Applicant submitted an application to amend the area of disturbance for Lot 1 of the Evergreen Subdivision Plat.
2. On November 21, 2019, staff determined the application to be complete.
3. The Applicant proposes to increase the area of disturbance for Lot 1 of the Evergreen Subdivision from 5,270 square feet to 6,260 square feet, a total increase of 540 square feet.
4. On March 19, 1987, the City Council approved the 36-Lot Evergreen Subdivision Plat (Summit County Recorder Entry 269685).
5. On May 17, 1988, the City Council approved an Amended Evergreen Subdivision Plat (Summit County Recorder Entry 290308).
6. Since the 1988 subdivision approval, City Council approved enlarging at least two Evergreen Subdivision Lot areas of disturbance (Ordinance No. 94-42 and Ordinance No. 02-06).
7. On April 27, 1995, the City Council passed Ordinance No. 95-17, An Ordinance Approving a Plat Amendment to the Evergreen Subdivision Area of Disturbance in Park City, Utah, requiring Evergreen Architectural Committee review and approval to amend the area of disturbance for the Evergreen Subdivision Lots.
8. Altering areas of disturbance on a subdivision plat requires a plat amendment.
9. Subdivision plat amendments are reviewed by staff and submitted to the Planning Commission for recommendation to the City Council. The City Council takes final action on plat amendments.
10. Lot 1 of the Evergreen Subdivision (7058 Silver Lake Drive) is located in the Residential Development Zoning District (RD Zone) within the Deer Valley Master Planned Development.
11. Lot 1 is adjacent to a residential property. The Deer Valley Last Chance Ski Trail runs directly behind Lot 1. A portion of Lot 1 contains a dedicated ski easement.
12. Single-Family Dwellings are an allowed use in the RD Zone.
13. There are no minimum or maximum Lot size requirements in the RD Zone and the maximum density for Lot 1 of the Evergreen Subdivision will be determined by Setback and Height restrictions outlined in the Land Management Code and contained within the area of disturbance established by the plat.
14. The Evergreen – Lot 1 Amended Plat complies with the Evergreen Subdivision plat requirements.
15. On December 18, 2019, the Applicant provided a letter demonstrating Evergreen Architectural Committee approval of the proposed enlargement of the Lot 1 area of disturbance.

16. The approval letter requires the following two conditions of approval: (1) the building pad adjustment must not encroach upon the recorded ski easement; and (2) the proposed building pad must maintain all lot setbacks required by the Land Management Code.

17. The Evergreen Subdivision Plat requires a 10-foot-wide non-exclusive utilities and drainage easement along all subdivision boundary lines, a five-foot-wide non-exclusive utilities and drainage easement along all side and rear lot lines, a five-foot-wide nonexclusive utilities and snow storage easement along all front lot lines, and the installation of an individual pressure reducer valve for each house constructed within the subdivision.

18. The proposed Evergreen Lot 1 Subdivision Amended Plat contains a note that all Conditions of Approval of the Evergreen Subdivision Plat continue to apply and that the house on Lot 1 will be required to install an individual pressure reducer valve.

Conclusions of Law – 7058 Silver Lake Drive

1. There is good cause for the Evergreen – Lot 1 Amended Plat.
2. The subdivision plat amendment is consistent with the Park City Land Management Code and applicable Utah law.
3. The subdivision plat amendment is consistent with the Evergreen Subdivision Plat.
4. Neither the public nor any person will be materially injured by the proposed plat amendment.
5. Approval of the subdivision plat amendment, subject to the conditions stated below, does not adversely affect the health, safety, or welfare of the citizens of Park City.

Conditions of Approval – 7058 Silver Lake Drive

1. The City Attorney and City Engineer will review and approve the final form and content of the Evergreen – Lot 1 Amended Plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the amended plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year, this approval for the plat will be void, unless a request for an extension is submitted in writing and approved by the City Council.
3. All applicable recorded public utility and access easements shall be indicated on the plat prior to recordation.
4. The building pad adjustment must not encroach upon the recorded ski easement.
5. The proposed building pad must maintain all lot setbacks required by the Land Management Code.

5.F. 802 Empire Avenue – Subdivision – The Applicant is Requesting to Combine Multiple Parcels into a New Two (2) Lot Subdivision.
(Application PL-18-03949)

Planner Alexandra Ananth introduced the applicant, Tom Peek.

Planner Ananth reviewed the proposal to combine multiple vacant parcels into a new two lot subdivision. The applicant was simultaneously seeking a CUP to locate a shared driveway over the platted unbuilt City right-of-way. The CUP application was the next item on the agenda.

Planner Ananth stated that the parcels are steeply sloped and slope down from Empire Avenue to Crescent Tram with frontage on both street. The lots are currently vacant.

Planner Ananth presented a slide showing the proposed two-lot subdivision. She noted that both lots meet all the lot and site requirements for the zone. Planner Ananth stated that the question is how these lots compare in size with the other lots in the neighborhood; and whether this lot should remain one lot or is it appropriate to subdivide into two lots. Planner Ananth had prepared an analysis of the neighborhood. While the lot size is slightly lower than the existing average lot size, it is well within the range of surrounding lot sizes and it meets the minimum lot size requirement of 1875 square feet.

The Staff found good cause for this two-lot subdivision. The subdivision will create two legal lots of record, and both lots meet the lot and site requirements for the Historic Residential District and the development patterns of the surrounding neighborhood. The subdivision will encourage construction of contextually compatible structures that contribute to the character and scale of the Historic District and maintain the existing residential neighborhood context. The subdivision is consistent with the Park City Land Management Code and does not adversely affect the health, safety, and welfare of the citizens of Park City.

Planner Ananth reported on one email with public input that she received after the Staff report was published. The email was provided to the Commissioners this evening. Planner Ananth stated that the email expresses appreciation for the public walkway from Main Street along Crescent Tram and they would love to see it extended up to Empire Avenue.

Planner Ananth noted that the City owns land adjacent to this subdivision and she will be speaking with the appropriate people to see if there is an opportunity to create an extended public walkway from Crescent Tram to Empire Avenue.

The Staff recommended that the Planning Commission review the subdivision plat, conduct a public hearing, and consider forwarding positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval found in the draft ordinance.

Commissioner Suesser found the Staff report lacking in providing a clear description of what was taking place. She understood that it was two and a half lots; a portion of Lot 19, all of Lot 20 and all of Lot 21. She asked if Lots 19 and 20 were being combined into one lot and Lot 21 would remain one lot. Commissioner Suesser needed additional explanation and she wanted to know more about the other portion of Lot 19. She noted that the Staff report does not identify where the right-of-way cuts through the property. Commissioner Suesser requested further clarification.

Planner Ananth believed the other portion of Lot 19 is owned by the immediate abutting property at 812 Empire Avenue. Commissioner Suesser asked if Planner Ananth had a plat or survey. Chair Phillips thought that would be helpful because he was having a difficult time trying to picture it.

Planner Ananth pulled up Exhibit B, a map showing that the proposed lot line runs through Lot 20. The two and a half parcels would be divided equally into approximately 2600 square foot lots. Commissioner Suesser wanted to see the original lot line between Lots 19 and 20. City Attorney Harrington thought page 2 of Exhibit B showed what Commissioner Suesser was asking about.

Commissioner Suesser asked if Lots 19, 20 and 21 even touch Empire. Planner Ananth replied that none of the lots touch built Empire Avenue, but they all touch the platted unbuilt right-of-way. Planner Ananth pointed out the lot lines for Lots 19, 20 and 21 and where the lots all stop. Commissioner Suesser questioned whether the lots run all the way to Empire. Planner Ananth answered yes.

Commissioner Thimm thought page 181 of the Staff report might help provide clarity because it showed the road. Commissioner Suesser asked if Lot 19 runs all the way up or if it stops just before the driveway starts. Commissioner Thimm asked if the dashed line just above the driveway was a lot line or a setback. Planner Ananth replied that it was the setback line. She pointed to the lot line. If the question was whether it runs all the way down to platted unbuilt Empire; she believed it did. Planner Ananth remarked that there were some property swaps with the City and she believed this area was part of a quit claim deed. Commissioner Suesser asked if the right-of-way was the arc pieces that runs through Lot 20. Planner Ananth stated that the right-of-way is the space in between the lots and the built Empire Avenue. Commissioner Suesser

thought the right-of-way runs down to 8th Avenue through Lots 20 and 21. Chair Phillips believed that was just the easement.

Commissioner Suesser explained that she found the Staff report lacking because nothing was clear and it was difficult to understand exactly what was being requested.

City Attorney Harrington stated that the section indicated on the previous page was part of the prior street right-of-way vacation. It is owned by Mr. Peek by virtue of an ordinance which vacated that right-of-way.

Mr. Peek explained that the vacation was originally done in 1991; however, mistakes were made at that time and they spent two years getting it back to the original agreement. He noted that the quit claim was recently redone to make it cleaner.

Commissioner Suesser questioned whether they were building over a right-of-way if it was vacated. She was confused on what was vacated. City Attorney Harrington stated that the Empire Avenue right-of-way on the front of this area was vacated; but there was still new right-of-way by virtue of what was received in exchange on the frontage. Mr. Peek remarked that the City received the Crescent Tramway walkway. Mr. Harrington believed it was dedicated either through a separate acquisition or through use in terms of the actual location of facilities and right-of-way. Mr. Harrington pointed out that there are different types of right-of-way. The City owns right-of-way through prescriptive use, through dedication, acquired by fee title or deed, and right-of-way dedicated through plats.

Commissioner Suesser asked Planner Ananth to walk through the plat on the screen and identify what was between lot line 1 and lot line 2. Director Erickson stated that the only thing between lot line 1 and lot line 2 were the setbacks. He thought there would likely be utility easements in that location as well. Commissioner Suesser asked if utility easements were likely or if it was already there. Director Erickson replied that it is reserved for future utilities. There is always a municipal utility easement and a public utility easement in the setbacks on every site. Chair Phillips agreed that it is typical and it will configure with the new configuration.

Planner Ananth reported that the applicant had outlined a potential building pad for those lots inside Lots 1 and 2 with side setbacks in between; as well as proposed driveway areas and the future concrete shared driveway that would access both Lot 1 and Lot 2.

Commissioner Suesser asked if the width of Lot 19, Lot 20, and Lot 21 were 25-feet or wider. Commissioner Thimm referred to page 179 of the Staff report. Director Erickson

stated that Lot 21 is a remnant of the shift between the original Park City Survey and the Snyder's Addition to the survey. When it was created it was not created in the traditional lot size. Commissioner Suesser clarified that she was only asking for the width of the lots and the proposed width. Planner Ananth replied that the proposed width of Lot 1 along Crescent Tram is 48 feet. Lot 21 was originally 43 feet wide plus additional footage for the frontage.

Commissioner Suesser asked if the historic home was on the north side of Lot 21. Planner Ananth pointed out that all three lots are vacant. Commissioner Suesser stated that she was asking about the historic home at 732 Crescent just off of Crescent Tram in the corner. Mr. Peek noted that going up 8th Street it bends onto Crescent Tram and there is a white home that is being redone and yellow house above. He owns that property as well. Mr. Peek pointed out a triangle in between the yellow home and this property. The triangle is part of the City's acquisition of Treasure Hill property which may someday have stairs or some other type of access. Commissioner Suesser wanted to see where that is in relation to these lots. There is a little gully and that access has been contemplated for a long time. She was unsure how this subdivision might affect that potential walkway. She assumed it was the 8th Street ROW. Mr. Peek noted that it is fairly narrow at the bottom and he has been trying to work out on the yellow home property. He noted that he would like the stairway and public access. Part of the benefit of being up in that area of the community is the easy access walking over to the run, across the run down the Crescent Tramway down to the Kimball Arts Center. Mr. Peek clarified that he was trying to open up that pinch point at the bottom of the street.

Commissioner Suesser understood that there once was a house on Lot 2 but it was razed. She asked if the future building pad is in the same location as the previous home on Lot 20. Mr. Peek answered no. Commissioner Suesser clarified that these lots did not touch Empire and their access was to Crescent Tram. Mr. Peek quit claimed and added property to those lots in order to obtain access on to Empire. Mr. Peek noted that the piece of property Commissioner Suesser talked about adding on to this property has been a driveway to that property since the late 1950s or early 1960s. Even though it was not owned, it was utilized that way.

Director Erickson asked if the other Commissioners were having a difficult time reading the diagrams provided. Chair Phillips thought they were hard to understand primarily because the drawings are complicated. Director Erickson asked if there was additional background information that the Planning Commission would like the Staff to provide, such as the stairway issue. Commissioner Suesser thought it was important to know whether this subdivision would impede development of that access. Director Erickson pointed out that the extension of Crescent Tram is probably not the liability of applicant.

Director Erickson thought this was a good discussion because the Staff has a better understanding of the Planning Commission concerns regarding this project and guidance on what information they want in future applications.

Commissioner Kenworthy referred to the slide showing the average lot size. The average legal lot size is 1875 square feet. He asked for an explanation on the two lots that are not a legal lot size on the analysis. Planner Ananth did not know the history on those two lots and why they were not legal. She assumed they were pre-existing non-conforming. Mr. Peek believed that happened when they changed Empire Avenue. The Commissioners and Mr. Peek discussed other homes in the area and talked about which homes are historic and which ones are not.

Chair Phillips opened the public hearing.

Kaitlyn McHugh, a resident at 841 Empire, stated that she knows this area very well. She thought the diagram should be zoomed out so the Commissioners could see the adjacent properties in addition to calling out the rights-of-way. Ms. McHugh noted that Google Satellite showed the yellow house and where the angled lot line meets Crescent Tram. Ms. McHugh stated that where Crescent Tram and Empire meet is the 9th Street right-of-way of the City, which is undeveloped. There is also a driveway to an apartment building on the opposite upper side of the street. At that point it never meets Lowell. Ms. McHugh remarked that as Crescent Tram goes down and around, it meets up with the City pathway. The pathway is a tremendous amenity but it is inconsistently developed and maintained. It is quite dangerous most of the year but it is still awesome as the fastest way to town. Ms. McHugh stated that any time there is snow, people walk around the hairpin turn from Empire to Lowell to also get down around the Empire/Crescent Tram. There is a brief comfortable grade before it dips significantly before going back up. She has watched dozens of people fall.

Ms. McHugh commented on the many pedestrian uses in the area, in addition to vehicle access. She was concerned about additional vehicles and pedestrians, particularly when there is snow. The City has not put in 9th Street stairs like they have on the other streets that deal with steep slopes to town. Crescent Trams is a great amenity but it is not well maintained. Ms. McHugh stated that the City right-of-way is adjacent to these properties and it does connect to Empire. Ms. McHugh stated that if this project is approved, it will continue to add more people and more vehicles to the situation. She thought it would be wonderful if the City provided access to town from these upper streets. She believed these lots were the key to a possible connection if the City does not intend to build something off of 9th Street.

Nick Frost stated that he was an attorney representing Rick Kinsley, a resident at 808 Empire. Mr. Frost remarked that he is usually geared towards resolution to make things work, rather than escalating situations. He was here this evening in that spirit. Mr. Frost stated that Mr. Kinsley recognizes Mr. Peek's rights to develop his land in accordance with the LMC and State Statute where applicable; but he also has concerns related to this development, and more particular to the 732 Crescent Tram house and some of those parcels. Mr. Frost understood that Mr. Peek had been working on this for a long time and that there are many moving pieces. Mr. Kinsley and other neighbors he has spoken with, but does not represent, have concerns related to the transparency of the situation. He believed this issue could be resolved with neighbor to neighbor communication.

Mr. Frost stated that there is a perception being created of secret meetings where land is being swapped between the City and Mr. Peek to try to help Mr. Peek in his development efforts. Mr. Peek came before the Historic Preservation Board a year ago regarding the yellow house. Mr. Frost attended that meeting and the idea was to preserve the structural integrity of the house when Mr. Peek requested that it be mothballed and was granted approval. Mr. Frost noted that earlier this evening Mr. Peek alluded to the idea that this house may be potentially moved or altered in some way, which would be contrary to the representations made with the HPB. Mr. Frost stated that since perception can be reality to the misinformed mind, there may be value in having neighbor to neighbor discussion. He recognized that this was not a requirement of the application but he believed it would go a long way in resolving some of these matters.

Mr. Frost recommended that Mr. Peek discuss these items and his future plans with his neighbors. It would be beneficial to the situation and he might garnish more support than the uncertainty that breeds fear. Mr. Frost reiterated that this was not an effort to take away Mr. Peek's right to legally develop his land in the way that is available to him. He only wanted to relate the points of concern to the neighbors and that could probably be addressed with communication.

Commissioner Suesser asked if 808 Empire was the private driveway on the turn. Mr. Frost answered yes. It is just up from the proposed driveway.

Commissioner Suesser thought it would be helpful for the Planning Commission to see where the proposed driveway in relation to the driveway at 808 Empire and the other homes on Empire.

Commissioner Suesser asked if Mr. Frost wanted to articulate the concerns or just have Mr. Peek talk to the neighbors.

Mr. Frost stated that one of the concerns is the perception of what is going on between Mr. Peek and the City. When the Staff report came out the neighbors were surprised to learn that land was being swapped between the City and Mr. Peek and why they were not informed. Mr. Frost noted that some of the quit claim deeds were just recorded mid-2019. He learned from Mr. Peek today that maybe these issues have been going on for some time and they were trying to rectify some deed issues. He did not know the full scope and neither do the neighbors.

Mr. Frost stated that another concern is the historic home. It is directly in Mr. Kinsley's view, and they went to great lengths to make sure it would be preserved and what elements would or would not be preserved. Certain representations were made at the Historic Preservation Board meeting and now there are concerns that that parcel and some next to it will become another three-lot subdivision and that the house will be moved or altered in some way. Mr. Frost stated that the neighbors were interested in what was occurring from a wholistic standpoint rather than just looking at this one little project.

Commissioner Suesser asked Planner Ananth to add those concerns to the list of clarifications that she would like to see. There is reference to the quit claims and she would like to understand what those were, who participated, and whether or not City land was involved in those quit claims. Mr. Peek stated that the only City land involved was a piece of property that was incorrectly recorded. A small tail of a piece of property that stuck into what was the Sweeney property and is now City property. He quit claimed that back to the City. Mr. Peek clarified that he intended to do that with Pat Sweeney two years ago but Mr. Sweeney did not want to do anything that might jeopardize the Treasure Hill project. That was why it only occurred recently. Mr. Peek remarked that nothing has been done behind the scenes.

Chair Phillips thought the whole situation was confusing and like the neighbors, the Planning Commission was trying to understand everything. He agreed that better diagrams and better imagery with good explanations would help them understand what they were being asked to approve.

Commissioner Suesser pointed out that Lots 19, 20, and 21 were not as deep as they are now and they did not come all the way up to Empire. She wanted to know which lot got quit claimed and how those lots now extend to Empire. Planner Ananth had the history and offered to provide it at a later time.

Mr. Peek offered to come back with additional information that would help the Commissioners understand the lay of the land.

Commissioner Thimm thought this item should be continued pending further information. He also thought the CUP for 802 Empire should be continued as well until all the issues have been addressed.

Chair Phillips closed the public hearing.

Commissioner Suesser commented on the CUP. She stated that the roadway with the driveway that the former resident parked on is almost even with the Empire, but it drops off dramatically. She had concerns about the grade of the driveways and believed they could not be less than the 10% required. Mr. Peek stated that the driveways will be at grade to whatever building get built. Commissioner Suesser emphasized that the drop off is steep. Mr. Peek stated that what is experience off the parking situation is a cut hill that was fill that was caused when the Empire/Lowell situation occurred. He noted that the chalet Commissioner Suesser was describing sat on a flat piece of ground. The slope does not go from that point all the way down to the Crescent Tramway. It drops off, goes flat, and then a small drop. Commissioner Suesser wanted to know how he would connect the driveway with the drop. Mr. Peek believed the rear foundation of the building would be tucked back in. The driveway would be retained or it could potentially be a bridge. Mr. Peek thought it would be similar to any downhill floor plan in Old Town where the hill drops away.

Chair Phillips requested illustrations of where it was done elsewhere for the next meeting.

MOTION: Commissioner Kenworthy moved to CONTINUE the 802 Empire Avenue Subdivision to February 12, 2020. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously. Commissioner Hall was not present for the vote.

5.G. 802 Empire Avenue – Conditional Use Permit – The Applicant is requesting to Construct a Shared Driveway Over the Platted Unbuilt City Right-of-Way. (Application PL-19-04113)

Planner Ananth reviewed the application for a conditional use permit for 802 Empire Avenue. The applicant was requesting a CUP for the shared driveway over the platted unbuilt right-of-way.

Planner Ananth reported that this application must meet the driveway standards for private driveways; as well as the LMC conditional use permit criteria.

Since the Planning Commission continued the subdivision for 802 Empire, Planner Ananth suggested continuing the CUP since both applications were intertwined. The Commissioner concurred.

Planner Ananth thought the clarifications requested on the Subdivision application were clear and would help in understanding this application.

Commissioner Suesser asked Planner Ananth to clearly identify the location of the City unbuilt right-of-way in the diagrams for the next meeting.

Mr. Peek stated that the stairway was planned as part of the Treasure Hill project in two different locations inside the triangular piece. One angled more towards Empire and the other straight up and into what would have been the entry of the Treasure Hill project. Commissioner Suesser clarified that Lots 20 or 21 would not have been impacted. Mr. Peek answered no and explained how both options ran up the property lines.

Chair Phillips agreed that this was an important element and he asked Mr. Peek to expand on that information visually and through the Staff report.

Chair Phillips opened the public hearing.

Kaitlyn McHugh stated that the area has been used as a driveway for a long time, but the distance of the driveway has been landscaped and creates a gap between the home and the parked cars. There was also a stairway to the residence. Hardscaping the common area and the two driveways could potentially change Empire into Lowell significantly. She echoed the request for additional information and diagrams.

Ms. McHugh asked that her comments from the Subdivision public hearing also be reflected on the record as public comment for this conditional use application.

Chair Phillips closed the public hearing.

MOTION: Commissioner Suesser moved to CONTINUE 802 Empire Avenue Conditional Use Permit to February 12, 2020. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously. Commissioner Hall was not present for the vote.

5.H. 322 Park Avenue – Plat Amendment – The Applicant is Requesting to Combine Two (2) Lots into One (1) Larger Lot. (Application PL-19-04345)

Commissioner Sletten recused himself and left the meeting.

Planner Ananth reviewed the application for a plat amendment at 322 Park Avenue. The request is to combine two traditional 25' x 75' lots one larger lot. She noted that this was a complicated site. The rear portion of the site is constrained by utility pads and a large retaining wall that are remnants from the previous mall that is now the Parkite Condominiums, which is a through lot with retail on the ground floor fronting on Main Street and residential condominiums above. In addition to the large retained area of utility pads are a number of easements which further complicates these lots.

Planner Ananth reported that these lots are basically undevelopable on their own. The applicant was proposing to combine the lots to have enough area to create a footprint for a structure. The lots are located in the HR-2 District. No project is currently proposed.

Planner Ananth presented a slide showing the large utility pad that takes up a significant portion of the second half of the site. Another slide showed a number of easements that further constrain the site; most significantly the 10' easement along the south side of the property. Planner Ananth pointed out how this limits the buildable footprint to the front portion of these two lots and the potential for some overhang over the utility pad.

Planner Ananth pointed out the utility pad. She noted that the utilities are no longer there but a large cement structure remains. A wall on the westerly portion is a tall retaining wall that retains the hillside up towards Park Avenue.

Commissioner Suesser asked for clarification on the utility pads and who they benefit. Planner Ananth explained that the pads are remnants from the mall that was in the same location where the Parkite Condominium building sits now. Chair Phillips pointed out that the utility pads were built over the property line. Planner Ananth assumed there was an easement agreement that allowed the pads to be built over the property line.

Commissioner Suesser wanted to know why the pads needed to remain. Planner Ananth replied that the pads could be taken out, but it would be very expensive to remove them.

Commissioner Suesser asked Planner Ananth to point out Lots 27 and 28. Planner Ananth pointed to the lots and noted that an internal lot line divides the property almost

in half. She remarked that the plat amendment would remove the internal lot line on these two properties. The combined lot would be 50' wide by 75' long. Planner Ananth clarified that the interior lot line was the dividing lot line between Lot 27 and Lot 28. Currently they are two separate lots and the applicant was proposing to remove the middle lot to combine the two lots into one larger lot.

Commissioner Suesser wanted to know who put in the retaining wall and whether it needed to remain. Director Erickson replied that the retaining wall went in with the mall before the Parkite was redeveloped. Chair Phillips understood that the retaining wall was used for the condensers. It is no longer being used and it can be removed.

Planner Ananth stated that the proposed new lot would meet the lot and site requirements of the LMC. She reiterated that at this time, there were no current plans for a structure on the lot.

Chair Phillips assumed 50' x 75' lots were common up and down the street. Planner Ananth remarked that the Parkite building was the neighbor to the north, which is a large through lot. The neighbor to the south is a traditional 25' x 75' lot with a single-family house.

Planner Ananth stated that this plat amendment was a simple lot combination combining two lots into one, even though it is a complicated site. Chair Phillips clarified that the complications are due to the old structures. Planner Ananth stated that the easements also present some problems. She explained that there is a 10' wide easement from the property to the east which fronts on Main Street, which she believed was related to egress out of that building. Behind the proposed new lot are two lots that front on Main Street and contain multi-tenant commercial buildings that are built all the way to the property lines. The property to the southeast has the easement for egress over Lot 28.

Director Erickson commented on similar easements between Park Avenue and Main Street.

Chair Phillips opened the public hearing.

John Demkowitz, the owner of 323 Main Street, directly east of this project stated that the 10' easements are his and they are secondary access to his building. Mr. Demkowitz was not opposed to the plat amendment to combine the lots; however, he had concerns about what they intend to do with the lot. He read from page 3 of the Staff report, "The applicant has indicated that the existing concrete retaining walls must remain and that the existence of this area makes the existing two lots basically

undevelopable on their own. However, the combination of these lots provides sufficient footprint area to develop a structure on the lot that could cantilever over the concrete retaining walls and leaving sufficient area for the maintenance and repair of these walls in the future". Mr. Demkowitz did not believe the retaining wall needed to remain and he thought it should be removed. He stated that the interior slab is the only thing keeping the retaining wall standing. Otherwise, the wall is not functional. Mr. Demkowitz understood that the applicant was trying to save money, but in return the result will be a bad product. Mr. Demkowitz stated that the applicant was proposing to build a structure inside the wall structure, as well as extend it beyond. He believed that was the cantilever reference. Mr. Demkowitz remarked that if they intend to build a rigid structure inside another rigid structure in order to maximize the space, there will be little or no separation between the two.

Mr. Demkowitz pointed out that Park City is in a seismic area and he was concerned that the two structures would collide if there is a seismic event. It is a bad situation. He reiterated the importance of removing the retaining wall and do another shoring system. If the retaining wall is removed, the footprint could be extended to his 10' easement.

Mr. Demkowitz also had concerns with the volumetrics that were submitted, which shows a piece of the garage protruding south of the wall. He noted that a site plan was not provided and it was hard for him to see how it fits the easement. Mr. Demkowitz wanted some assurances that the back of the garage respects the 10' easement.

Mr. Demkowitz emphasized that he was very opposed to building a structure inside another structure because it is a bad engineering solution. He noted that during construction of the Parkite, there was considerable discussion on how to handle that piece. He spoke with the project architect, the project manager, and a structural engineer and they all said the retaining wall should be removed. Mr. Demkowitz pointed out that the wall was connected to the Parkite and he believed it would be a Code violation. He could understand why the applicant wanted to save money, but it is wrong to create a worse situation in order to save money.

Planner Ananth understood Mr. Demkowitz's concerns; however, this was a plat amendment to combine two lots. At this time no project is proposed. The lots are for sale and there is no condition or approval to maintain the walls. A future buyer could decide to remove the walls or they could leave it.

Chair Phillips concurred that this item was a plat amendment and it did not involve a structure. He informed Mr. Demkowitz that while there may be concept plans at this point, but an application to build a structure would go through its own separate process and his concerns could be addressed at that time. He appreciated Mr. Demkowitz's

comments and explanation; however, the only consideration this evening was to review the requested plat amendment to combine two lots.

Mr. Demkowitz clarified that he did not object to the lot combination.

Chair Phillips understood the concerns regarding the wall, and the wall will be addressed at the appropriate time.

Chair Phillips closed the public hearing.

Chair Phillips asked if an application to build would be a Steep Slope CUP. Planner Ananth had not done the calculation to know if it would be on a steep slope. She assumed that if the retaining wall remains in place it would not require a Steep Slope CUP. However, if they remove the wall it potentially could be a steep slope. Chair Phillips stated that if the lots are combined, there should be an interpolated grade of where the original grade would be without this plat amendment.

Director Erickson noted that he has the authority to make that determination in the LMC. He would not know the answer until he goes on site; and if the retaining wall is removed it could affect his decision. Director Erickson clarified that it could be a steep slope CUP depending on the placement of the building, because it is calculated on the steepness under the building and the area of steepness. It would also go through the full HDDR process. The "unbuildability" of the lot is dependent on how the easements work as well. Those will need to be cleaned up at some point.

Chair Phillips remarked that combining the lots provide more options to work around the easements. He believed that was good cause for this plat amendment.

Commissioner Kenworthy favored the plat amendment. He assured Mr. Demkowitz that a decision by the Planning Commission this evening would not affect his easement.

Commissioner Thimm thought they should move forward on removing the lot line. However, a public safety issue had been raised in terms of a wall that could fail. He suggested that the Planning Commission request that the Chief Building Official look at the wall and determine if there is a public safety hazard. Director Erickson believed there was merit in the request and he assumed the City Council would have the same question. Director Erickson did not think it needed to be a condition of approval. The Commissioners could just make the request to Staff and he would talk with the Chief Building Official.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the 322 Park Avenue Plat Amendment based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as outlined in the draft ordinance. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed 4-1. Commissioner Suesser voted against the motion. Commissioner Sletten was recused. Commissioner Hall was not present for the vote.

Findings of Fact – 322 Park Avenue

1. The subject property is located at 802 Empire Avenue.
2. The subject property is located within the Historic Residential (HR-1) Zoning District.
3. On December 17, 2019, the Subdivision Plat application was deemed complete.
4. The two-lot (2) Subdivision is made up of three (3) lots including portions of Lot 19, all of Lot 20, and all of Lot 21.
5. All three lots are vacant of structures.
6. The applicant has worked with the City to complete and record Quitclaim Deeds and resolve a number of encroachments.
7. The lots are considered “thru-lots” with Frontage on both Crescent Tram and Empire Avenue.
8. Due to the Unusual Lot Configuration the Planning Director determined that both lots have two front setbacks, one on Crescent Tram and one on Empire Avenue, and that Frontage can be measured on Crescent Tram in order to meet the Minimum Lot Width.
9. Both lots meet the minimum Lot and Site Requirements for Single Family Dwellings.
10. Due to existing grades, sight lines and road geometrics the applicant has been encouraged by the City to access the lots from Empire Avenue and has submitted a simultaneous request for a Conditional Use Permit (CUP) to locate a shared driveway over the City’s Platted Unbuilt Right-of-Way in order to provide vehicular access to the two lots from Empire Avenue and not Crescent Tram.
11. It is expected that the applicant will also need to seek a Steep Slope Administrative CUP and submit Historic District Design Review applications for the proposed houses as development progresses.

Conclusions of Law – 322 Park Avenue

1. There is Good Cause for the Subdivision which created two developable lots in keeping with development patterns in the surrounding neighborhood.

2. The Subdivision is consistent with the 2014 Park City General Plan and the Park City Land Management Code including Sections 15-7.1-3(C) and 15-12-15(B)(4) and (9) and applicable State Law regarding Subdivision Plats.
 3. Neither the public nor any person will be materially injured by the proposed Subdivision.
 4. Approval of the Subdivision does 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 Subdivision Plat for compliance with State Law, the Land Management Code, and the Conditions of Approval, prior to recordation of the Plat.
 2. The applicant will record the Plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' 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. A Plat Note shall indicate that both lots shall have vehicular access from Empire Avenue only.
 4. The applicant will need to enter into an Encroachment Agreement for the driveway located within the Public Right-of-Way.
 5. If at some point in the future Empire Avenue is re-aligned, the applicant will be responsible for the removal of all portions of the driveway within the ROW at their sole expense and in an expeditious manner (within 90 days if written notice).
 6. The City Engineer shall review and approve all grading, utility installation and public improvements prior to building permit issuance.
 7. Prior to the issuance of a building permit a Construction Mitigation Plan that includes careful consideration of how construction related parking will be managed shall be submitted to the Building, Engineering and Planning Departments for review and approval.

The Planning Commission Meeting adjourned at 9:03 p.m.

Approved by Planning Commission: _____