



**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MARCH 13, 2024**

COMMISSIONERS IN ATTENDANCE: Chair Sarah Hall, Vice Chair Christin Van Dine, Laura Suesser, Bill Johnson, John Frontero, Henry Sigg, Rick Shand

EX OFFICIO: Rebecca Ward, Planning Director; Spencer Cawley, City Planner; Caitlyn Tubbs, Senior Historic Preservation Planner; Lillian Zollinger, City Planner; Virgil Lund, City Planner; Jaron Ehlers, Planning Technician; John Robertson, City Engineer; Mark Harrington, City Attorney

1. ROLL CALL

Chair Sarah Hall called the meeting to order at approximately 5:30 p.m. and confirmed the attendance of all Commissioners with the exception of Commissioner Christin Van Dine and Commissioner Rick Shand, who would be joining the meeting shortly. She noted that Commissioner Henry Sigg appeared online via Zoom. The meeting proceeded with a quorum.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from February 14, 2024.

MOTION: Commissioner Johnson moved to APPROVE the Planning Commission Meeting Minutes from February 14, 2024. Commissioner Frontero seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioners Van Dine and Shand were not present for the vote.

B. Consideration to Approve the Planning Commission Meeting Minutes from February 21, 2024.

MOTION: Commissioner Henry Sigg moved to APPROVE the Planning Commission Meeting Minutes from February 21, 2024. Commissioner Johnson seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioners Van Dine and Shand were not present for the vote.

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Planning Director, Rebecca Ward reported that tonight's meeting would include a Work Session on Land Management Code ("LMC") Amendments scheduled for review in 2024. There would not be a public hearing during the Work Session but each amendment would proceed through the public notice and public hearing process when they are ready to move forward. With respect to the public hearings on the agenda, she reminded any attendees who wished to speak to state their full name and sign in, limit comments to three minutes or less, and direct comments to the Commission and not to the applicant or audience. Public speakers should be civil and address matters in the pending application or ordinance being reviewed by the Commission.

Chair Hall disclosed that she would recuse herself from Agenda Item 7. C.

4. PUBLIC COMMUNICATIONS

There were no public communications.

5. CONTINUATIONS

- A. 10206 Twisted Branch Road – Subdivision** – The Applicant Proposes to Create One (1) Lot with Access Off of Gated/Private Twisted Branch Road in the Recreation and Open Space Zoning District and in the Sensitive Land Overlay. PL-23-05973.

Chair Hall opened the public hearing. There was no public comment. The public hearing was closed.

MOTION: Commissioner Johnson moved to CONTINUE 10206 Twisted Branch Road – Subdivision and the public hearing thereon to a date uncertain. Commissioner Sigg seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioners Van Dine and Shand were not present for the vote.

- B. 10206 Twisted Branch Road – Conditional Use Permit** – The Applicant Proposes to Construct a Private Restaurant with Ski-in/Ski-out Access in the Recreation and Open Space Zoning District and the Sensitive Land Overlay. PL-23-05823.

Chair Hall opened the public hearing. There was no public comment. The public hearing was closed.

MOTION: Commissioner Sigg moved to CONTINUE 10206 Twisted Branch Road – Conditional Use Permit and the public hearing thereon to a date uncertain. Commissioner Frontero seconded the motion.

VOTE: The motion passed with the unanimous consent of the Commission. Commissioners Van Dine and Shand were not present for the vote.

6. WORK SESSION

A. Land Management Code Amendments – The Planning Commission Will Review Code Amendments in Progress and Prioritize Amendments for 2024.

Director Ward reported that the Work Session will be a high-level overview of the LMC amendments in progress. She presented a list of the 2023 LMC amendments that were completed and enacted by the City Council, which included:

- Water Wise Landscaping;
- Secure Bicycle Parking requirements for interior bike storage and outdoor bike parking;
- Sensitive Land Overlay updates; and
- Others listed in the Staff Report.

Some of the amendments enacted in 2023 would require additional amendment in 2024 in part due to some updates to the requirements from the State Legislature. With respect to the status of the General Plan process, Director Ward reported that the LMC implements the goals and policies of the General Plan, and the Park City General Plan is now a decade old. Last year, the City Council gave direction to issue a Request for Proposals (“RFP”) for consultant services for a comprehensive update to the General Plan. She reported that this work was scheduled to begin after the Bonanza Park Small Area Plan is concluded. Once the comprehensive update is completed, they anticipate a complete overhaul and update of the LMC.

Director Ward reported that they are entering into the final phase of the Bonanza Park Small Area Plan. The final community meeting was scheduled for April 9, 2024, at the Park City Library. Based on what they had heard from the community thus far, the goal for this neighborhood was to create a mixed-use neighborhood that would be vibrant for locals and would be more intuitive and safe for pedestrians, cyclists, and transit users. Additionally, affordable, and long-term rental units were also highlighted in the community feedback. Green space, open space, and community space was also favored, as was sustainable design with arts and culture elements woven throughout. As the Small Area Plan moves forward, it will come to the Planning Commission for review and public hearings, with a potential recommendation to the City Council. If the Small Area Plan were adopted, Staff would then pursue Code amendments to bring the recommendations into effect for future development applications.

City Planner, Spencer Cawley noted that based on the public input Staff anticipated that some of the amendments would be crafted to create a vibrant, mixed-use district. They also anticipated clarifying the Frontage Protection Zone (“FPZ”) requirements within this area, prioritizing pedestrians, bicyclists, and transit, and establishing vertical zoning. They also anticipate amendments limiting Nightly Rentals, limiting conventional chain businesses in this area, and potentially allowing up to four stories when community benefits are provided as part of a development.

Director Ward stated that in terms of multi-modal transportation, the goals in the current General Plan were outlined in the Staff Report. She reported that Lisa Wise Consulting, Fehr & Peers, and Cascadia Partners completed their reports, which were being updated to reflect the latest input from the Planning Commission. Staff will bring the amendments forward in sections, with affordable housing, multi-modal transportation, and parking presented in the spring and summer. She added that multi-modal transportation to support bike and pedestrian connectivity would include updating the parking requirements, setting baseline criteria to support pedestrian-oriented

neighborhoods, establishing criteria for potential parking reductions, and outlining Transportation Demand Management (“TDM”) plans. She noted that the TDM plans would require developers who receive a reduction in parking to have a long-term reporting requirement, specifically outlined enforcement capabilities and flexibility to address changes in future uses to the project that could be reviewed by the Planning Commission.

Planner Cawley addressed the amendments for public transportation and transit. He mentioned the allowance of e-buses and improvements within the Setbacks or encroachment into the public Rights-of-Way. Currently, the FPZ is the only location that outlines the capabilities for the development of transit. He reported that the City received funds to move forward with implementing some infrastructure and was looking to add clarification in the Code that would allow for pullouts, the installation of electrical charging stations, bus shelters, and the like. The amendments were to be presented to the Planning Commission on April 10, 2024.

In terms of Sustainability, Director Ward reported that Staff was continuing to coordinate with the Sustainability team on their Strategic Action Plan for building de-carbonization. Additionally, the Dark Sky amendments enacted in 2021 established a deadline at the end of 2024 to retrofit outdoor light bulbs. Therefore, Staff would be presenting amendments to update the Code. Based on the Planning Commission’s recommendations regarding affordable housing to the City Council as part of the Lot Combination amendments, the City Council expressed support for amendments to allow for more Accessory Apartments city-wide. The Planning and Housing teams were working on these amendments and would bring forward proposed amendments to reduce some of the restrictions for Accessory Apartments and allow flexibility for those uses in Affordable Master Plan Developments.

Senior Historic Preservation Planner, Caitlyn Tubbs reported that a joint Work Session was held with the Planning Commission and the Historic Preservation Board (“HPB”) in October 2023. Both bodies supported enacting requirements for Temporary Structures in Historic Districts. Staff drafted some regulations in this regard and brought them to both bodies for Work Sessions. The standards would come back to the Commission for recommendations on March 27, 2024. Following the HPB’s guidance, Staff also drafted regulations and standards for panelization and lifts of Historic Structures. These standards would outline methods of deconstruction, requirements for storage and upkeep, and reporting for those materials. The HPB also requested an opportunity to revisit the opacity and materials standards for both Historic Structures and new construction in Historic Districts.

Planner Tubbs reported that both the panelization and lift standards and the opacity and materials standards would be presented to the HPB for a Work Session, and then would come before the Planning Commission for a recommendation in June or July 2024. City Council action would then follow later in the summer.

City Planner, Lillian Zollinger reported that part of the General Plan goals regarding Steep Slopes was to review historic preservation, especially with regards to Steep Slopes. She noted that updated criteria were needed, which included clarifying internal height standards and removing provisions regarding crawlspaces. Staff was also coordinating with the Building and Engineering Departments to require additional submittals by applicants, including a geotechnical report, so there would be additional information for the Planning Commission to consider.

Commissioner Suesser understood that this Work Session related to LMC Amendments but this discussion seemed to relate to General Plan amendments. Planner Zollinger clarified that she

stated that one of the goals of the General Plan was to review the Steep Slope criteria and update as needed. In order to comply with the General Plan, they would look to update the LMC with some details on Steep Slopes. Planner Zollinger confirmed that the LMC amendments just mentioned had not yet been proposed, and would come before the Commission this year. She next addressed Tents and Outdoor Events and noted that the Temporary Tent Use would transition from an Administrative Conditional Use Permit ("CUP") to an Administrative Permit. This would make it easier for an applicant to understand the requirements, rather than requiring all 16 CUP criteria. The amendments would also clarify the Outdoor Event Use in correlation with a Temporary Tent. She highlighted that this would only apply to Temporary Tents up for 14 days or less; any Tent up for a longer time would still come before the Planning Commission as a CUP.

Planner Cawley reported that in the past year, the Planning Commission reviewed potential parking amendments that would allow parking to be satisfied within Setbacks. These amendments had not been brought back before the Commission, but as part of a 2019 Task Force, there was community support to establish consistency regarding driveways in Historic Districts. Since then, there has been some confusion with Staff as to enforcement and where parking was allowed. He recalled that in the September Work Session, the Commission indicated support for carve-out exceptions for Historic sites. He stated Staff would therefore schedule this issue for a Work Session in the late spring for further discussion.

With regard to the Sensitive Land Overlay ("SLO"), Director Ward stated they would recommend clarifications on what would trigger the analysis for the Planning Commission's review. She added that it would include annexations, Master Plan Developments ("MPDs") and CUPs. Additionally, it would also include Plat Amendments proposed to change platted elements such as a Building Pad or Limit of Disturbance.

City Planner, Virgil Lund stated that the LMC amendments would also clarify the definition of an outdoor pool and an outdoor hot tub. He stated that outdoor pools associated with Single-Family Dwellings or residential uses would still require a CUP. Commissioner Johnson sought clarification that these amendments will relate only to exterior outdoor pools and would not include Accessory Structures that house a pool. Director Ward stated they could evaluate this when these proposed amendments were reviewed. Planner Lund explained that the City started a Radon Taskforce to look at mitigation, raising awareness, and other things related to radon. Currently, the City started testing vacant City-owned housing units and was providing free radon tests to City employees.

As part of this taskforce, he stated they were looking at Code amendments requiring new construction to accommodate potential radon mitigation in the future. He also reported that Staff had been looking at childcare land use regulations and potential updates to those in the Code. They were also looking at parking requirements for childcare facilities, the review level, and potential changes to better align the LMC with State Code regarding childcare facilities.

Planner Cawley mentioned that the Appeal Panel established in July 2024 held its first meeting in early March, and Staff would be recommending amendments to the Code that would create a section specific to the Appeal Panel that would regulate staggered terms and allow members to serve until a successor is appointed.

In response to Commissioner Suesser's inquiry regarding those selected to be on the Appeal Panel, Director Ward listed the following: Adam Strachan, Estaban Nunez, and Matthew Day.

Director Ward next addressed accessory uses in MPDs, and reminded that the City Council requested the formation of a task force to address four questions:

- The purpose of the amendments;
- The financial implications;
- The type of development the amendments would incentivize and disincentivize; and
- More information on the footnote that connected Resort Support Commercial uses to approved MPDs.

The task force met three times and were scheduled for a final meeting on April 3. The task force would present their findings to the Planning Commission and City Council.

Planner Zollinger reported that last year the State Legislature established Code regarding mobile businesses. She stated that a proposed amendment would update the Code to comply with the State Code as well as the State Code definitions. Staff would also propose establishing mobile businesses as Uses, and establishing allowed uses in certain zoning districts.

Director Ward stated that the final amendments will address Subdivisions. She recalled they went over the new requirements from the State just a few months ago related to Subdivisions for Single-Family, Duplex, and Townhomes. She reported they would present minor modifications to Code that would reflect the changes enacted by the State. She noted that they included as an exhibit those items that they established for review with the Planning Commission. For those that were not included, they would move forward following receipt of the final report from the consultants on affordable housing and Transportation Demand Management.

Director Ward presented the proposed schedule and requested feedback from the Commission on whether there were additional amendments to prioritize this year. They would also like feedback on whether the Commission desired to appoint liaisons for certain amendments, and whether it was still the Commission's preference to schedule these amendments as the last Agenda Item moving forward.

With respect to the inquiry regarding additional amendments that the Planning Commission would like to add for consideration this year, Commissioner Suesser recalled that during the last meeting, Lisa Wise Consultants presented a number of LMC amendments. She queried whether they were talking about waiting to update the General Plan until after the Bonanza Park Small Area Plan was completed. Director Ward confirmed.

Commissioner Suesser asked if the amendments presented tonight were just for the General Plan. Director Ward explained that these amendments were proposed under the existing General Plan and were in process and would move forward. She noted that everything discussed tonight was an LMC amendment, and they were all based on the existing General Plan. Director Ward explained that the amendments in process were those discussed during this Work Session, and Staff requested input from the Commission on whether there were any other potential amendments to add to the list. She stated the Code amendments currently in progress included TDM, transit improvements, Sustainability, affordable housing, Historic preservation, Steep Slopes, Tents and Outdoor Events, parking clarifications, Sensitive Land Overlay, swimming pool updates, radon mitigation, childcare updates, Appeal Panel, Accessory Uses, mobile businesses, and Subdivisions. She asked if the Planning Commission wished to evaluate other Code amendments this year.

Commissioner Suesser reported that she keeps a list as the Commission comes across issues that are not well defined in the Code. She mentioned Building Height being measured from the lowest finish floor and was unsure whether that was covered in Steep Slopes. Director Ward stated that the issue was covered in the Steep Slope amendments. Director Ward further explained that those provisions were included in the Historic Residential zones, so it was associated with the Steep Slope review. Currently, the standard was different in the different Historic Residential zones, so they were working to clarify that and make sure it was consistent across all of the Historic Residential zones. Those amendments were scheduled for review in July.

Commissioner Suesser also mentioned verification of Open Space measurements and the verification of Open Space measurements by Staff. She also mentioned the issue of whether private space should count as Open Space in an MPD application. With respect to Steep Slopes, Commissioner Suesser stated that she would like to see clarifications on the requirements to step a project up a hill and whether that meant excavating the entire site and back filling it to make it look like it was stepped up the hillside. She would like clarification of what is meant by "stepping up the hillside," and the excavation limits. She noted that the Commission struggled with Steep Slopes and would like to see a lot of clarifications and that sometimes it was unclear that there were any restrictions on development on Steep Slopes. Commissioner Suesser mentioned that development on SLO was also on her list, but acknowledged that Staff addressed that in this presentation.

Commissioner Johnson referenced the presented schedule and understood that Staff did not yet have the multi-modal transportation or affordable housing component from the consultants. He suggested they run that review process concurrently with Bonanza Park or after. Based on how they reviewed those already, he felt it would be advantageous for the Commission to review them in one meeting together so they could put context to it.

Director Ward asked if they would like that to be when the Commission reviewed the Plan itself, or when they reviewed Code amendments. Commissioner Johnson stated the Plan should be the trigger, and mentioned the possibility that a new Zoning District might be created as part of the Bonanza Park process.

Commissioner Suesser agreed with Commissioner Johnson's suggestion and noted she was somewhat bewildered by this process because to her it would make sense to have the Small Area Plan results and/or have the General Plan updated before the LMC amendments.

Director Ward reported that Staff recommended that process in 2023, and the Planning Commission requested Staff to move forward with these Code amendments. If that has changed, they could put these on pause.

Commissioner Suesser suggested that they continue.

Commissioner Sigg wondered if they should review the process of plat amendments, edits, and additions as a potential avenue for bypassing land use authority. He stated he was seeing more applications seeking a plat amendment that would exempt the applicant from certain aspects of the newer Code. He would like to look at that, especially as it relates to MPDs and CUPs. He was seeing a lot of Conditions of Approval being predicated on a forthcoming report. He preferred not to approve based on the results of a report, but rather approve based on the review of a

definitive, exacting, final report. He felt it was better to have those tools when reviewing MPDs and CUPs versus being forced to make a decision that would grant a change subject to a report being favorable for that change. Commissioner Suesser agreed, particularly with regard to the review process as it related to a Subdivision Plat Amendment.

Chair Hall noted that the Staff Report identified the end of May for review of the Appeal Board amendments, and asked if they could add that to the schedule. Director Ward explained that the reference to May was when the terms would end. She stated those amendments were not time-sensitive since they have an established Appeal Panel, but they planned on bringing that back to the Commission before the end of the year.

Director Ward next asked if any Commissioners would like to serve as liaisons for any of the listed amendments. She explained that this was a new list of amendments, and noted that former Commissioner John Kenworthy had served as one of the transportation liaisons, along with Commissioner Frontero. She asked if any Commissioner wished to join as a transportation liaison. Commissioner Suesser offered to serve as a liaison on Accessory Uses and Steep Slopes. Commissioner Johnson stated he could serve as a liaison on transportation.

Commissioner Shand asked if liaisons had already been established for some of these subcommittees. Director Ward confirmed but stated that the amended Code had been adopted for many of the liaisons from last year. Those still in progress included transportation, Steep Slopes, and Historic preservation. Commissioner Suesser offered to serve as liaison for Historic Preservation. Commissioner Johnson understood he would still be on SLO.

Commissioner Sigg was interested in transportation and was involved in the group that did the fact-finding on how modes of transportation could be forwarded. He recalled that in the past he was on Accessory Uses as well, and stated he could serve on that again if needed. Commissioner Johnson stated that Commissioner Sigg could take his place as transportation liaison and offered to serve on Tents and Outdoor Events, outdoor pools, and Radon mitigation.

Director Ward reported they still have an opening for a liaison for parking and possible parking reductions, as well as parking regulations in residential neighborhoods and parking in Setbacks. Chair Hall and Commissioner Shand offered to serve on those subcommittees. Commissioner Shand reported that he is currently the liaison for auxiliary uses and MPDs, but expressed he would be happy to serve on parking.

Director Ward noted that the Mayor appointed a Planning Commission liaison to the task force, and Commissioner Shand was part of the task force. Commissioner Sigg and Commissioner Suesser would serve on the Accessory Uses Code.

Director Ward felt that all issues were covered and suggested that they circulate the list to ensure that it is up to date.

7. REGULAR AGENDA

- A. 8200 Royal Street – Condominium Plat Amendment –** The Applicant Proposes to Construct a 192-Square-Foot-Addition on the Main Level of Unit 35 in the Residential Development Zoning District. PL-24-06046.

Planner Lund reported that Stag Lodge Phase II is a 12-unit Phase of the 52-unit condominium project located in the Silver Lake area of Deer Valley. Unit 35 in Stag Lodge is a detached Single-Family unit. The second amended Plat Amendment for Stag Lodge created additional private areas for the units, labeled Private Ownership Area A and Private Ownership Area B. The third amended Plat Amendment for Stag Lodge specifically related to Unit 35 and expanded the garage level to encompass the entire Building Footprint. The proposal sought to add a 192-square-foot addition to Unit 35 that would encompass the existing deck area. He presented images showing the existing plat, where he highlighted in yellow the area to be added. He also identified the image depicting the proposed plat.

Planner Lund reported that the proposed plat complies with the Residential Development ("RD") Zoning District requirements. With regard to Setbacks, he reported there was 120 feet to the side property line and approximately 20 feet to the rear property line. The addition would not encroach into any Setbacks. No additional parking demand would be created by this proposal. The garage was Code-compliant for two parking spaces. Planner Lund also mentioned that the proposal complies with the Deer Valley Large Scale MPD, and there would be no additional residential units as part of this Plat Amendment.

In terms of SLO requirements, he explained the proposed addition would occur on the existing deck and would not affect any of the Sensitive Land around the development. Staff found good cause for this Plat Amendment in that it would not create any additional parking demand, it would remain compliant with the Deer Valley Large Scale MPD, and would not create any non-conformities. In addition, no public street, right-of-way, or easement would be vacated or amended. He invited the applicant to provide any additional background information.

On behalf of the applicant, Marshall King from Alliance Engineering reported that Planner Lund sufficiently explained the proposal. He stated it was fairly simple and not a major addition, and he would answer any questions from the Commission.

Chair Hall invited any clarifying questions from the Commission.

Commissioner Frontero referenced the area outlined in yellow in the Staff Report and sought clarification that this was currently a deck for the exclusive use of Unit 35. Applicant-representative King confirmed and added that it was defined as Private Ownership Area B. The proposal was to enclose this area and use Private Ownership Area B as part of the unit.

Applicant-representative King reported that the proposal would enlarge the dining and living area of the unit. It was noted that Private Ownership Area B would be made a part of Private Ownership Area A.

Commissioner Suesser asked if the deck would be attached to the exterior following the renovation. Planner Lund reported that would require another Plat Amendment since it

would create more Private Ownership Areas. He noted that to the left of the yellow highlighted area was currently a common area, so if the owners were to expand and add another deck it would require another Plat Amendment.

Applicant-representative King reported he was at the site a week or two ago, and he did not believe they had even cleared the snow out of that area. In other words, that area is not used; rather it is just an unused deck. He added that the hot tub was located toward the back of the unit, and the owners use the front area of the deck. He felt the snow in the relevant area had accumulated over the entire season, which demonstrated an area of the deck that does not get used. It would be used by being brought inside.

Chair Hall opened the public hearing. There was no public comment. The public hearing was closed.

Commissioner Shand understood that the Plat Amendment would enclose a deck, and asked if the area underneath the deck would be conditioned space or insulated. Applicant-representative King responded no, and explained it would remain open to the outside at this point. Commissioner Shand understood that flooring would be installed on the interior, but other than that there would be no insulation to the elements. Applicant-representative King stated there would have to be insulation in the floor area underneath the deck. However, from the outside looking up would appear to be the ceiling.

MOTION: Commissioner Johnson moved to APPROVE 8200 Royal Street, Unit 35 – Plat Amendment, based on the following:

Findings of Fact

1. The Stag Lodge Condominium project consists of a total of 52 units ranging in size from 2,213 square feet to 6,806.8 square feet. Unit 35 of Stag Lodge Phase II is a detached, single-family unit.
2. On May 17, 1985, the Planning Commission approved a Master Planned Development application for the Stag Lodge Phase II condominiums. Page 114 of 274.
3. The Stag Lodge Phase II Condominium Plat was recorded on January 17, 1989, Summit County Recorder Entry No. 303348.
4. The First Amended Stag Lodge Phase II plat was recorded with Summit County on January 17, 2003, and created two types of ownership for the units.
5. The Second Amended Stag Lodge Phase II plat was approved by the City Council on July 1, 2004, and recorded at Summit County on May 25, 2005, and created an additional private area for the Units.

6. The Third Amended Stag Lodge Phase II plat was approved on August 21, 2014, by the City Council and recorded with Summit County on January 12, 2015, Summit County Recorder Entry No. 1010601. This amendment enlarged Unit 35 by expanding the Garage Level to encompass the entire building footprint. The amendment converted Common Area to Private Ownership Area A. 1,789.8 square feet was added to Unit 35 as part of the Third Amended Plat.
7. The Applicant proposes to add 192 square feet of "Private Ownership Area A" to Unit 35.
8. The Fifth Amended Stag Lodge Phase II Condominium Plat complies with LMC Chapter 15-2.13, the Residential Development Zoning District Requirements
 - a. Setbacks: The proposed addition will occur on the north side of the Structure. The Structure maintains an approximately 50-foot Setback to the side property line. The Structure maintains approximately 20 feet to the Rear and South Side Property line.
9. The proposal complies with LMC § 15-3-6, Off-Street Parking Requirements
 - a. Condominiums greater than 2,000 square feet require 2 Parking Spaces per Dwelling Unit. Unit 35 has a two-car garage that is approximately 27 feet wide by 23 feet deep
10. The proposal complies with the Deer Valley Resort 12th Amended and Restated Large-Scale Master Plan
 - a. The Deer Valley Master Plan allowed 52 Units for the Stag Lodge Condominium Project, and 52 Units have been constructed. No additional Units are proposed as part of this Plat Amendment.
11. The proposal complies with the Sensitive Land Overlay requirements
 - a. For projects within the Deer Valley Large Scale Master Planned Development, the density limitations of the Sensitive Area Overlay Zone do not apply because Master Planning Developments approved prior to the adoption of the Sensitive Area Overlay Zone are vested in terms of density.
 - b. The proposed addition will be constructed on an existing disturbed area, within the footprint of the Structure.

12. The proposal complies with LMC § 15-7.1-3(B), Plat Amendment
 - a. Changes to platted elements including conversion of Common Area/Limited Common Area within a condominium requires a Plat Amendment. Plat Amendments shall be reviewed according to the requirements of LMC § 15-7-1.6 and approval shall require a finding of Good Cause.
 - b. LMC § 15-15-1 defines Good Cause as “Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.”
 - c. Good Cause exists for this plat amendment because this amendment does not change the mass of the existing structure or the parking requirements, will remain compliant with the Deer Valley Large Scale MPD, and does not create any non-conformities. No Public Street, Right of Way, or easement has been vacated or amended.

Conclusions of Law

1. There is Good Cause for this plat amendment.
2. The Plat Amendment is consistent with Land Management Code § 15-7.1-3(B), § 15-7.1-6, and Chapter 15-2.13 Residential Development District.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions below, 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 plat for compliance with State law, the Land Management Code, the Conditions of Approval, and the amended CC&Rs prior to recordation of the plat.

2. The Applicant shall record the plat at the County within one year from the date of Planning Commission approval. If recordation is not complete within one year, this approval 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 Planning Director.

Commissioner Sigg seconded the motion.

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

- B. 844 Empire Avenue – Plat Amendment** – The Applicant Seeks a Plat Amendment to Remove Plat Note 3 to Accommodate Access for the Construction of a New Detached Garage at a Significant Historic Site in the Historic Residential - 1 Zoning District. PL-24-06049.

Planner Tubbs reported that 844 Empire is a unique Lot in terms of location and configuration. The Lot is located at the intersection of Crescent Tram Road, Empire Avenue, and the 9th Street public Right-of-Way. A photograph was displayed of a Lot shaped like a cartoon speech bubble. In 2016, the former Planning Director issued a Planning Director Determination for this property because of its' unique configuration and frontage along three public Rights-of-Way. She noted that this home has three Front Setbacks, one Side Setback, and one Rear Setback.

Planner Tubbs reported that the purpose of this application was to remove Plat Note 3, which she read as follows:

“[d]rive access to the site shall be from Empire Avenue or through platted un-built 9th Street in a location approved by the City Engineer.”

The Plat Note was to be included in a former Plat Amendment application that was approved by the City Council in 2016 under Ordinance 2016-26.

The application currently before the Commission was submitted to accommodate the applicant's current proposal to construct an addition to the Historic Structure and to construct a detached garage in the area marked in orange on the presented graphic.

Planner Tubbs also presented a current view of the structure and a rendering of the proposed configuration. The detached garage would be located west of the existing home and would load access onto Crescent Tram Road. The property was designated a Significant Historic Site, and the home was constructed circa 1904. On March 23, 2016, the Planning Commission held a public hearing and reviewed a Plat Amendment request where they discussed the effect that the Crescent Tram Right-of-Way dedication would have on the allowable Building Footprint for the home and any future additions.

Planner Tubbs noted that this discussion was continued to an April meeting, and then again to May 11, 2016, when the Planning Commission continued its' discussion of the Right-of-Way dedication and allowable locations for drive access and its' effect on the intersections of Crescent Tram Road and Empire Avenue. She referenced the Minutes from the May 11, 2016 meeting, and stated that it was noted by the former City Engineer that he did not anticipate that the 9th Street stairs would ever be completed. At that time, the City Engineer indicated that the stairs had been in discussion during his entire tenure, and had not occurred, and because of this, he opined they would never be built out.

Planner Tubbs indicated that the stairs were constructed, and there was a ribbon cutting a couple of weeks ago. Commissioner Suesser added that the reason the former City Engineer felt the stairs would never come to fruition was because of the number of utility lines that run along that Right-of-Way.

Planner Tubbs provided the Minutes from that meeting with underlines. She noted that the former City Engineer felt that due to the site constraints, half of the driveway would be on 9th Street, and the other half would be in front of the property on Empire Avenue. In that iteration of the design, it was anticipated that it would not be a singular access off of Empire Avenue or a singular access off the 9th Street Right-of-Way; rather, it would span the property line to provide vehicular access.

Planner Tubbs further reported that in June 2016 the City Council approved the Plat Amendment. More recently, she visited the site along with the Planning Director, the Chief Building Official, and the applicant, and looked at the existing structure. Following that site visit, the Building Official determined that the structure was eligible for panelization and was not structurally sound enough to be lifted as originally proposed. In February 2024, the HPB also visited the site and reviewed the damage caused by the fire. The HPB then held a public hearing and ultimately approved the proposed panelization of the structure and the material deconstruction to accommodate the proposed addition. The HPB found that the proposal was consistent with the requirements outlined in the LMC and supported the maintenance of the historic character of Old Town Park City.

Following that hearing, the applicant submitted an application for a Plat Amendment and a variance due to the proximity of the proposed garage to the northern and southern Front Setbacks.

Planner Tubbs explained the changes from the former City Engineer's recommendation and the current City Engineer's recommendation. She reported that the 9th Street public stairs were, in fact, fully constructed. Staff confirmed that there were still utilities in that area that could not support the weight of vehicles either driving or parking over them. This was confirmed by the Water Department as noted in the Staff Report. She reported that the speed limit was reduced along Crescent Tram Road as part of the citywide effort to mitigate speeding.

Finally, the private driveway CUP provision was removed from the LMC. Under the prior ordinance in effect in 2016, private driveways could be located within public Rights-of-Way under a CUP. This is no longer available; therefore the applicant no longer has the option to utilize that public Right-of-Way as private access.

Planner Tubbs reported that Staff found good cause for the approval of this Plat Amendment, especially given that there would be no vacation or amendment of a public Right-of-Way or street. Easements on the property would likewise not be changed. In addition, the Plat Amendment would allow the construction of a garage and provide some off-street parking in an area where there is limited off-street parking. She stressed that the only change to the Plat would be the removal of one Plat Note. There would be no change to property lines, easements, or Rights-of-Way.

Staff recommended the Planning Commission review the proposed Plat Amendment, conduct a public hearing, and consider approving the Plat Amendment based on the Findings of Fact, Conclusions of Law, and Conditions of Approval in the Draft Final Action Letter.

If the Planning Commission needed additional information or had further questions beyond the scope of this evening's review, Planner Tubbs stated the Commission could request that information and consider continuing the item to the Planning Commission meeting on April 10, 2024.

On behalf of the applicant, Marshall King from Alliance Engineering reported that he had nothing to add, but expressed he would be happy to answer any questions. He noted that the project architect, Jonathan DeGray, AIA was also present.

Chair Hall invited any clarifying questions from the Commission prior to opening the public hearing.

Commissioner Suesser asked Planner Tubbs to share the architectural renderings of the proposal rather than the single image from the Staff Report. She expressed her belief that what was shown was not an accurate depiction and felt it did not show the proposed addition. She mentioned that the Commission was required to determine whether or not this proposal met the requirements of the LMC. Planner Tubbs presented a rendering. Commissioner Johnson characterized the proposed ingress and egress as being off of 8th Street and observed one could only pull into the driveway going uphill, and then go uphill to exit. He understood that one could not come down 8th Street and take a left into the driveway because of the turning radius and the tightness of the road.

Planner Tubbs reported that given the current width of Crescent Tram Road, it would require some effort to be able to make a left turn into the garage. It would either require a smaller car with a tight turning radius, or it would require a multiple-point turn. The intent was to load the garage coming uphill along Crescent Tram Road and then back out, but she deferred that to the applicant team.

Architect DeGray confirmed that Commissioner Johnson's comment was accurate, and stated that was the practical approach to entering the garage. It was designed to access up and in from Crescent Tram Road, and then back and exit out through Empire Avenue. As it currently stands, there is no off-street parking for the property, and the owners must find spaces on Empire Avenue. This proposal would provide an opportunity for some off-street parking for the property.

Commissioner Johnson asked when the Variance for the Setback exceptions would be reviewed for final action. Planner Tubbs reported that the Board of Adjustment was scheduled to meet on March 19th to render that decision. Planner Tubbs also confirmed that the Historic District Design Review ("HDDR") would take place after the Plat Amendment and the Variance.

Commissioner Johnson felt that they were going backward and that because the applicant was asking for a Variance to the Setbacks and there was no Plat Note regarding the actual driveway and Building Pad, he expressed they were shooting themselves in the foot by not allowing the Variance process to run its course prior to the Plat Amendment.

Planner Tubbs stated that the two could be conditioned based on one another; however, if the Planning Commission preferred to continue this item to allow the Board of Adjustment to render its' decision prior to acting on the Plat Amendment, that was an option.

Architect DeGray clarified that the Board of Adjustment would be looking at the proposal to build an Accessory Structure for a garage. If that were not allowed, the applicant would likely then ask to have a parking pad with a driveway in the same location as currently proposed. He felt that the question of removing the Plat Note was still pertinent, whether it would be now or after the Board of Adjustment hearing. The applicant would still be required to get the Plat Note resolved because it says that access is only available off of Empire Avenue, and the applicant went to the trouble of clarifying that before starting any design work with the City Engineer. They were told the applicant could pursue driveways off of Crescent Tram Road, and the design they have been working with is based on that.

Commissioner Johnson appreciated the clarification. It was noted that the current owner was also the owner at the time of the 2016 Plat Amendment. Commissioner Johnson stated that as he read through the Minutes of that prior meeting, it was contemplated that the 9th Street stairs were an unknown, but the discussion regarding access was extensive and the point was made that the only access to the property was off of Empire Avenue. He noted there were discussions about utilities in terms of removal of the hydrant, and the burden of that cost would be on the property owner should that need to be removed. He stressed that Empire Avenue was contemplated to be the access point, but the intersection would need to be upgraded. He also noted from those Minutes that the applicant indicated that they no longer wanted to have any type of vehicle access. Commissioner Johnson noted that the applicant acknowledged they have a Significant

Historic Site that was not subject to any parking requirement because it is a legal, non-conforming property. He questioned why they were circling back seven years later when the discussion was already held with the prior Commission.

Commissioner Sigg followed this same thought process. Not having the empirical data from the Board of Adjustment prior to taking action on this Plat Amendment touched on the same discussion earlier regarding the LMC amendments. He felt it would be better to have those types of decisions before acting on this application.

Commissioner Sigg mentioned the improvements to the interchange at Crescent Tram Road and Empire Avenue, and the 2016 assessment by the City Engineer at the time that those would have to be greatly improved for any alternate consideration. He questioned why this was now being revisited through this application. He wondered if there was a survey that showed the utilities. He wanted to understand where the phone lines ran and what, if any, easements might exist for those utility lines.

Planner Tubbs reported that City Engineer, John Robertson was present to discuss the Right-of-Way impacts and the distance requirements between driveways and intersections.

Commissioner Sigg asked if the utility providers signed off on this proposal. Planner Tubbs responded that this proposal was reviewed several times by the Development Review Committee, and they have utility teams that provide input during that process. Since last year, the feedback from the Development Review Committee was that they fully supported this Plat Amendment. It was noted that they did not want access onto 9th Street or Empire Avenue, and the preference was that access be from Crescent Tram Road.

Commissioner Sigg focused on the utility providers and noted that the providers were not part of the Development Review Committee. As it related to the phone pole in that location, he questioned whether there were any easements there such that the pole would need to be moved. He also wanted to know whether they signed off on this proposal, and wanted to see the letter from the provider that they accepted this design.

City Engineer Robertson reported that a majority of the utilities that were of concern were two fairly large water lines that are currently in the 9th Street Right-of-Way, and they are located to the south of the new stairs. He noted it would be very difficult and expensive to relocate those water lines, and the Water Department did not support relocating those water lines.

Commissioner Sigg stated that those were not the utilities that he referenced in his question; rather, he referred to the overheads. He understood the water lines were expensive and could not bear the stress or weight of any type of vehicular traffic. His interest was in the overhead line that runs diagonally across 9th Street and Lot 1 to what

appears to be at the back of the garage. He also wanted to know if that line extended beyond that point and whether there was an easement for that utility line.

Engineer Robertson stated the overhead lines that currently run east/west are allowed because it is a 9th Street Right-of-Way roadway. He just spoke to the applicant's representative to determine if they had more information about that pole as he does not have good information. They could research it to determine if it is just a service line that could be easily undergrounded.

Planner Tubbs noted that Exhibit C in the Packet was the currently recorded amended Plat, and there were no public utility easements called out. The proposed Plat that was included as Exhibit E mirrors that. Therefore, the only difference between the currently recorded Plat and the proposal is the removal of the Plat Note. She confirmed that no easements or Rights-of-Way would be affected by this proposal. Commissioner Sigg acknowledged that he saw that in the Packet.

Commissioner Van Dine asked about the length of the driveway. Architect DeGray referenced the architectural site plan in the Packet.

Commissioner Suesser commented on the continued reference to this Plat Amendment as only removing Plat Note 3 as if that were the only thing the Commission should consider. She pointed to the Staff Report that specifically stated that the Planning Commission was required to review Plat Amendments according to the requirements of LMC Section 15-7. She mentioned that Section 15-7 provides the Commission must consider requirements of the LMC, the General Plan, and the site plan, "paying particular attention to the arrangement, location, and width of streets and their relation to the topography, lot sizes and requirements of the Streets Master Plan." If the Commission finds that it complies with the LMC, then the Commission would determine whether it finds good cause. Commissioner Suesser stressed that this was not just a good cause analysis; rather, the Commission must determine if the proposal complied with the Code, and if so, whether there was good cause to allow the Plat Amendment. She reiterated that the Commission was required to review this application to see if it complied with the LMC, and not only whether there is good cause to remove the Plat Note.

Commissioner Frontero noted that this item had not yet been opened for public comment, and suggested doing so.

Chair Hall opened the public hearing. There was no public comment. The public hearing was closed.

Commissioner Frontero reported that he spent some time on the Minutes from the 2016 meeting and there was quite a bit of discussion with the property owner regarding the potential for vehicular access. He noted that coming in from Crescent Tram Road was not an option that the Commission wanted to consider at that time. He noted that the Commission purposely diverted access to either the 9th Street Right-of-Way or Empire

Avenue. He did not feel that anything changed on Crescent Tram Road to allow it to handle this type of vehicular traffic to access the property from this direction. If this were an acceptable access point in 2016, then Condition of Approval 3 would not exist.

Commissioner Frontero understood that in 2016, Condition of Approval 3 was included because Crescent Tram Road was not a safe entry point, and the Commission decided that the only entry point had to come from a different angle. He noted that now, eight years later, the same owner was requesting to access the property from Crescent Tram Road. He did not see why that was suddenly a good plan when it was not a good plan eight years ago.

Commissioner Frontero felt it would be helpful to look at the Findings of Fact from 2016. He specifically highlighted Finding of Fact 33, which stated, "The City Engineer has indicated a vehicular access can only be accommodated off Empire Avenue or through platted un-built 9th Street." He felt there was a reason for this Finding, and noted that Crescent Tram was a substandard road, very steep with many turns, and it was not a good place to put an additional driveway. He then referenced Finding of Fact 34 which stated, "The Engineer is not willing to support vehicular access directly off of Crescent Tram." Commissioner Frontero stressed that Crescent Tram had not been improved in any way since the 2016 decision of the Planning Commission.

Commissioner Frontero commented that this was debated eight years ago, and he did not find any reason to change his mind that Crescent Tram was not the right place for this driveway. He then referenced Finding of Fact 37 that Historic Structures were exempt from off-street parking requirements, provided the addition would not create a lockout or accessory apartment. Commissioner Frontero reasoned that this was not a situation where there were no options; rather, the owner has the same option that has existed since 2016, which is street parking. He urged that there were plenty of homes in Old Town that do not have driveways or garages and the residents park in the street.

As the applicant withdrew their intention to install a driveway in 2016, they presumably either parked in the street or did not use the structure. He felt that parking in the street was a fine way to continue to use this property.

Engineer Robertson explained that the reasons he looked at Crescent Tram as an option for access to this property included the fact that 9th Street could no longer be used for driveway access and was no longer an option. Additionally, there was very limited area to put in a driveway between the intersection of Crescent Tram Road and Empire Avenue. As a result, he had to consider a Variance to the distance from a driveway to Crescent Tram Road, which was limited to 10 feet, and which did not allow Empire Avenue to be an option. Off of Crescent Tram Road, there was over 20 feet from the intersection of Crescent Tram and Empire Avenue to the driveway, which would create some buffer.

Engineer Robertson did not disagree with Commissioner Frontero's comments about some of the challenges on that roadway. He noted there had been requests to make

Crescent Tram Road a one-way road and they did a lot of research and data collecting over the past year and found that the volume on Crescent Tram was approximately 250 cars per day. At peak times, there could be up to 20 – 25 or more, but there is still only one car every few minutes. Therefore, they did not see the potential for a lot of conflicts on that roadway, and he did not feel it was as critical as perhaps it was at the time in 2016.

Engineer Robertson acknowledged the option of street parking and stated that if the Commission did not approve this Plat Amendment, the applicant still had that option. Commissioner Frontero stated that he visited the site with Planner Tubbs two days ago at 9:30 a.m., and there must have been 20 cars passing through in the 20 minutes he was there. Engineer Robertson acknowledged that was not a surprise.

Commissioner Frontero mentioned the volume of vehicles and people using the stairs and felt that introducing a driveway to this tight area seemed to be a detriment to the safety of the community. Engineer Robertson recognized that most of the driveways in that area back into the roadway.

Commissioner Johnson asked if the data collection referenced by Engineer Robertson was during the new traffic circulation at the resort base area. Engineering Robertson confirmed it was as it was collected in 2023. Commissioner Johnson had noticed that everyone goes up Empire Avenue and drops down onto 8th Street.

Commissioner Sigg added that there is a designated trailhead in that location that likely pre-dated the traffic study, and there is some off-street parking by that trailhead, albeit limited. He added that coming around the hairpin turn with the intention of taking a right onto Crescent Tram Road would present the sight line issues raised in 2016. If someone has to back their car out of this driveway, the traffic on Crescent Tram would have to be traveling really slow or the driver would need quick reflexes.

Engineer Robertson reported they looked at accident data for this intersection, and there had been no reported accidents in the last five years, and since 2012, there have been two reported accidents along Crescent Tram Road. He noted they had seen relatively low speeds along Crescent Tram, and he took all these things into consideration when making his recommendations, but acknowledged it was ultimately the Commission's decision.

Commissioner Suesser stated that Crescent Tram was closed down during snowstorms, and noted that within the last month, there were police at the top of Crescent Tram Road telling people to turn around. Engineer Robertson was not aware of that. Commissioner Suesser stated that the police were preventing accidents from happening due to the conditions of the road.

Commissioner Van Dine respectfully disagreed with Commissioner Frontero and some of the other Commissioners and noted that the old Plat Amendment was now not viable,

and this proposal was a reasonable option. She related that she has lived at the top of Crescent Tram Road and knows it is a hard turn, but commented that this would add one car, and the owner understands what they are getting into and has lived on that road forever. She stressed that the owner knows they would have to back out slowly and watch where they are going. The City has made efforts by decreasing the speed limit on Crescent Tram and taking steps to help with the flow of traffic, so she felt the good cause outlined by Staff was reasonable in mitigating the Plat Amendment.

Planner Tubbs asked if the Commission needed additional information in order to take action on this application. Commissioner Suesser did not need further information, which was echoed by other Commissioners.

Commissioner Johnson struggled to find good cause and concurred with Commissioner Frontero. He suggested either continuing this item until the Variance process was completed, or they could take a vote.

Commissioner Suesser opined that this application did not comply with LMC Section 15-2(a), (c), (d), and (e) because it did not preserve the present land use, and the present land use did not currently have parking on site. She agreed it was a use within the zone, however on this site there currently was no vehicle access, so this would not preserve the current use of the site by adding parking. She noted that was a requirement in the Historic District.

Commissioner Suesser expressed that the proposal did not contribute to the character and the scale of the Historic District, which is also a requirement of a Subdivision Plat Amendment. She also offered that this proposal was not consistent with the General Plan policies for the Historic core. The General Plan policy is to reduce parking and vehicle trips and encourage walkability, public transit, and reduced parking requirements in the Historic zone. This proposal was not consistent with LMC Section 15-2.2(d).

Commissioner Suesser did think the proposal would result in unmitigated impacts on Crescent Tram Road and public safety. She did not believe the proposal complied with the clear view requirements and distances between driveways and street intersections. Anyone coming out of that driveway would not be able to see someone turning left from Empire Avenue onto Crescent Tram Road. She also mentioned the issue of backing out into a one-way road with cars going up the hill.

Commissioner Suesser submitted that the proposal did not comply with LMC Section 15-7, which includes the requirements for Plat Amendments in the final Subdivision Plat. She also felt the proposal did not comply with Lot and Site requirements in the LMC because the current structure was on the property line on the northern side, and four feet from the property line on the southern side. The applicant proposed to keep the home in the same location; therefore they would have to go way into the Setbacks. While this issue of the Setbacks would come before the Board of Adjustment, Commissioner Suesser stressed that the Commission was required to review this application in terms of whether it

complied with the LMC, which she felt it did not. Commissioner Suesser concluded by stating that based on these reasons, she did not support the application.

Commissioner Frontero commented that based on his review of the Draft Final Action Letter, Conclusion of Law 4 stated, "Approval of the Plat Amendment subject to the Conditions below does not adversely affect the health, safety, and welfare of the citizens of Park City." He opined that this statement was inaccurate, and this proposal would directly adversely affect the health, safety, and welfare of the citizens of Park City as proposed.

Commissioner Suesser added she felt this application did not meet the requirement that the Plat Amendment be consistent with LMC Section 15-7 and 15-2, which is part of the Conclusion of Law 2 in the Draft Final Action Letter.

Commissioner Shand stated that in general, he supported this application. He would like to see one more car parked off the street and felt the onus was on the owner and the driver to back out safely. He did not find that this proposal necessarily created a safety concern for the citizens of Park City. Anyone making a turn from Empire Avenue onto Crescent Tram Road at more than 10 m.p.h. was taking their safety into their own hands. He did not necessarily see backing in and out of this driveway as a big concern and it would just be one car.

Commissioner Shand would feel more comfortable reviewing this after the review by the Board of Adjustment. He noted that some of the Commissioners referred to LMC provisions that he had not yet reviewed. He reiterated that he generally supported this application, but would also be in favor of postponing a decision until after the Board of Adjustment hearing.

Commissioner Van Dine wondered if waiting for the Board of Adjustment decision would actually change the decision of any Commissioner. Commissioner Suesser felt that was a good question and noted that the Board of Adjustment would only be addressing a Variance for the Setbacks. Commissioner Van Dine did not believe that would actually apply to this application, so the Commission should consider whether this item should be continued for the Board of Adjustment decision or for Staff to return with different findings.

Director Ward recommended that this item be continued until after the Variance so Staff could provide the LMC standards that are established in terms of requirements for driveways and distances they need to be from other driveways and the intersection. She stated those details were also established in the LMC. She stated it appeared there were additional points of discussion that Staff and the Commission could evaluate before taking action, pending the Board of Adjustment Variance review.

In terms of the Historic preservation of the site, Director Ward explained that the HPB visited the site, reviewed the proposed plans, and approved the applicant's request. If it

would be helpful for the Planning Commission, Staff could provide information from the HPB on their findings with respect to the proposal.

Commissioner Suesser stated she did not need that further information and was prepared to vote tonight. Commissioner Frontero felt the same and expressed that he was prepared to vote on this application and that additional information would not change his mind.

As the application was presented, Commissioner Sigg stated that the Board of Adjustment decision would not change his decision.

Commissioner Johnson believed that the Board of Adjustment decision was relevant because the Variance directly related to the Plat Note that the applicant seeks to remove, but he was willing to vote tonight.

Chair Hall asked if any other Commissioners supported a continuance. She noted that it appeared a majority of the Commissioners indicated that their decision would not be impacted by the Board of Adjustment decision.

Commissioner Van Dine stated her decision would likely not change as a result of the decision on the Variance.

Chair Hall invited a motion given the feedback from the Commission.

MOTION: Commissioner Frontero moved to DENY 844 Empire – Plat Amendment to remove Plat Note 3 and direct Staff to draft Findings of Fact and Conclusions of Law consistent with the statements of the majority. Commissioner Suesser seconded the motion.

VOTE: Commissioner Sigg-Yes; Commissioner Johnson-Yes; Commissioner Frontero-Yes; Commissioner Suesser-Yes; Commissioner Van Dine-No; Commissioner Shand-No. The motion passed 4-to-2.

City Attorney, Mark Harrington requested that Chair Hall take a motion to continue the matter to a date certain to return with the Final Action Letter. Director Ward reported that it could be continued to April 10, 2024.

MOTION: Commissioner Van Dine moved to CONTINUE 844 Empire Avenue to review the findings supporting denial to April 10, 2024. Commissioner Johnson seconded the motion.

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

Chair Hall reminded the Commissioners that she recused herself from the next Agenda Item and would leave the meeting. Vice-Chair Van Dine assumed the Chair and presided over the remainder of the meeting.

- C. 2685 Meadow Creek Drive – Plat Amendment** – The Applicant Proposes Amending the Smith Subdivision Parcel to Shift the Existing Building Pads Out of the Wetlands to Maintain the Sensitive Land Overlay and Amend the Driveway Easement to be Entirely on Parcel B Within the Estate Zoning District and Sensitive Land Overlay. PL-24-06003.

Following a short recess, Vice-Chair Van Dine confirmed the attendance of all Commissioners. She noted that public comment was limited to three minutes.

Planning Technician, Jaron Ehlers reported that Engineer Robertson, Applicant Paul Caraher, and Applicant-representative Josh Call were in attendance.

Planner Ehlers presented a graphic of the Smith Subdivision located near Park Avenue, McLeod Creek, and Meadow Creek Drive. He also presented the original Lot 6 of the Willow Ranch Subdivision along with the Plat Notes for that property. He pointed out the original Building Pads, the original driveway easement and utility easements along several of the boundaries. He presented the existing Smith Subdivision Plat. The change combined Lot 6 of the Willow Ranch with Lot 10 of the McLeod Subdivision, and the Lot line was moved up to have some of Lot 6 incorporated into what became Parcel A. The remainder of Lot 6 became Parcel B.

Planner Ehlers presented a graphic that further illustrated these Lots. The original Lot 10 was highlighted in green and the original Lot 6 was highlighted in yellow and purple. The purple area depicts the area of Lot 6 that joined with Lot 10 to become Parcel A. He presented the applicant's Site Plan that showed the wetlands found in the preliminary delineation, along with the 50-foot Setback around the two wetlands. It also showed the movement of the house Building Pad and the cut outs required by the Fire Department. This graphic also showed the original driveway easement that runs along what is now Parcel A. The graphic also depicted the changes proposed by the applicant.

Commissioner Frontero referenced the graphic that showed the wetlands and asked if those were currently delineated as wetlands. Planner Ehlers stated that according to the preliminary delineation, they were wetlands.

Applicant-representative Josh Call from Rimrock Engineering explained that they submitted the preliminary application to the Army Corps of Engineers, who then requested some additional information based on ground water. He stated they would be doing that this spring and submitting that additional information to the Army Corps of Engineers for verification.

Commissioner Frontero asked for clarification on what the applicant proposed to move. Planner Ehlers explained that the light gray box on the graphic was the existing one, and it showed why it needed to be moved. He confirmed it would be moved outside of the 50-foot Setback. Commissioner Frontero asked if the driveway also needed to be moved. Applicant-representative Call stated the driveway was no longer on the Lot itself, it was now in Parcel A. This proposal would return driveway access to the main parcel. Planner Ehlers mentioned that on the current Smith Plat, a “fenced driveway access” was called out where the proposed amendment of the easement would enter the Lot.

Commissioner Sigg asked if Parcel A and the McLeod Creek Lot were combined to become Parcel A. Planner Ehlers answered in the affirmative and explained that part of Lot 6 and all of Lot 10 were combined. Commissioner Sigg asked about the designation for Parcel A. Planner Ehlers explained that in 1995, the Smith Subdivision was created that included both Parcel A and Parcel B. These parcels were taken out of the Willow Ranch and the McLeod Subdivisions and put into their own new Subdivision. That was reflected on the McLeod Creek Plat map.

Commissioner Suesser asked if the existing driveway would remain and was represented by the dark shaded area on the graphic. Planner Ehlers clarified that there was no currently existing driveway; rather, there was a driveway easement. It was the driveway easement that was proposed to be amended as it was created as part of the original Willow Ranch Plat for the Smith Subdivision when part of the Willow Ranch Lot became part of the new Parcel A. He added that the original driveway easement was shown by a dotted line not filled in with light gray highlighting. He explained that this easement would be shifted to the north.

Commissioner Johnson clarified that the proposed new driveway was shown by the existing fence road. He noted that the area was already disturbed. Planner Ehlers explained that in 1980, McLeod Creek was approved, and in 1985 McLeod was rezoned to Single-Family. In 1992, the Willow Ranch Subdivision was approved and zoned Estate.

In 1995, the Smith Subdivision was approved which shifted the Lot line and created the two existing Lots. In 2022, the applicant submitted a proposed Plat Amendment to shift the Lot line between Parcel A and Parcel B back to the original status. That application was withdrawn before presentation to the Commission.

Planner Ehlers reported that on August 25, 2023, the City’s Development Review Committee reviewed the current application and the Site Plan resulted from those discussions. He stated that the proposed amendment complied with the Estate Zoning District, where agriculture and Single-Family Dwellings are both allowed uses. Lot B complied with the size and width requirements. He noted that the Building Pads would be located outside the 30-foot Setbacks, and the applicant had submitted plans for the proposed barn that would be 27.125 feet high, which is shorter than the 28-foot maximum zone height. Planner Ehlers also reported that the application complied with the SLO, as the Building Pads would be moved out of the 50-foot wetlands Setbacks.

Staff recommended Condition of Approval 7 to accommodate any changes that might arise from the final wetlands delineation. If a change were required, the applicant would return to the Planning Commission for a new approval.

Commissioner Suesser asked if the proposed plans located the Building Pad and barn 50 feet from the wetlands. Planner Ehlers pointed to the green hash marks that showed the Setbacks.

Staff also recommended Condition of Approval 8, which would take some of those restrictions from the original Willow Ranch Plat and include them as Plat Notes on the proposed amendment to the Smith Subdivision. Condition of Approval 9 required that part of the Smith Subdivision Plat be carried over as a Plat Note.

Planner Ehlers stated that Staff found good cause to amend the Smith Subdivision in that it complied with the Smith Subdivision procedures, and it would resolve existing issues by moving the Building Pad out of the wetland Setbacks, would bring the driveway easement into compliance with Fire District requirements, and the driveway would then be located exclusively on Parcel B. Staff recommended the Commission review the proposed Plat Amendment, hold a public hearing, and consider approving the proposed Plat Amendment.

Applicant Paul Caraher thanked the Commission for its time. He stated that they had two platted envelopes that had been determined to be in wetlands, so they were seeking to move those outside of the wetlands and the wetlands Setbacks. He stated that they were confident in the location of the wetland delineation, and did not feel there was any reason the location would change. If the location did change, the applicant was agreeable to the Conditions of Approval requiring them to return to the Commission. He stressed that they were trying to honor the SLO by moving these platted building envelopes outside of wetland areas.

Commissioner Johnson applauded and thanked the applicant for proactively mitigating environmental concerns and respecting the SLO. He noted that was a rarity these days.

Commissioner Sigg referenced the map that showed the shift and asked for an explanation of the dark line and rectangle that surrounded the barn. Applicant-representative Call explained that was a gravel, improved surface for ease of moving around the barn and also part of the fire-related Conditions of Approval. The Fire Chief wanted to be able to move equipment up and around the building and be supported. Commissioner Sigg asked if Lot A was in the Estate Zone. Planner Ehlers stated it was split. He pointed to the portion of Lot 10 that remained in the Single-Family Zone and the portion that remained in the Estate Zone.

Vice-Chair Van Dine opened the public hearing. She indicated that public comment was limited to the application before the Commission and comments were limited to three minutes.

Bob Theobald disclosed that there is currently a lawsuit between himself, Chair Hall, and the City, however, his comments tonight were not related to that lawsuit. He hoped to have some dialogue on this matter, as he believed the City and the Planner did not have a grasp of the entire situation. Vice-Chair Van Dine made it clear that there would be no back-and-forth dialogue between the speaker and the Commission. She welcomed his comments and stated the Commission would take them into consideration.

Mr. Theobald stated his comments would take more than three minutes, and Vice Chair Van Dine reminded the speaker that he had three minutes. Speaker Theobald urged the Commission to read his submission and left the dais. Vice-Chair Van Dine stated she would hold Mr. Theobald to the standards to which they hold all speakers. She noted they would ensure that his written comments would be made a part of the public record, and he was welcome to submit additional written comments for review by the Commission.

Gerry Hall identified himself as a resident of the Willow Ranch Subdivision. He stated that their Homeowners' Association ("HOA") voted in favor of this Plat Amendment and supported moving the building envelope and the driveway as needed. He clarified his understanding that the larger of the two Parcels was still part of the Willow Ranch HOA and Subdivision. He referenced the 1995 Conditions of Approval that stated that the Conditions of the Willow Ranch Subdivision still applied to this Lot. He stated that this Applicant was the Vice-President of the HOA, and he wanted to make sure that it was clear that this was not a separate Subdivision with its own separate HOA and Covenants, Conditions, and Restrictions ("CC&Rs"). Speaker Hall felt it was kind of weird that they named it a different Subdivision in the 1995 amendment, which created some confusion.

Bob Theobald returned to the dais and stated that he supported what the applicant was trying to do. He met with the Applicant to help him understand the wetlands situation. He expressed concern about the assumptions being made by Staff and the City. He argued that this was not just the Estate zone, and the CC&Rs had been changed through Ordinance 2021-20, as well as the Master Plan approval in 1993 that relied on the Covenants Codes and Restrictions ("CC&Rs").

Specifically, Speaker Theobald referred to the third page of his handout where it said, "This is the Notice of Final Action" and was signed by the City and the developer. He added that the Conditions of Approval provided that "prior to plat recordation, the Community Development Department and City Attorney shall have reviewed and approved the CC&Rs, which shall include restrictions on architecture and use."

Speaker Theobald stated that one year ago in December, Commissioner Hall and the applicant gutted and deleted in its entirety all of the provisions in the Conditions of

Approval to the original Master Plan. He stressed that everything was gone, and there were new CC&Rs that deleted Limits of Disturbance. Additionally, there was no longer Wetlands, Exhibit H and referenced an exhibit in his handout that showed what the wetlands look like today before the new delineation approved by the Army Corps of Engineers. This needs to be reconsidered and re-presented by Staff because Staff's assumptions were wrong.

There was no further public comment. Vice-Chair Van Dine closed the public hearing.

Director Ward requested the opportunity to provide additional information from the original review of the Willow Ranch Subdivision. On January 7, 1993, when the Planning Commission reviewed the original, Staff recommended CC&Rs that specifically addressed Accessory Apartments and Maximum Square Footage to preclude the development of duplexes. When the Plat went to the City Council for review on January 28, 1993, Director Ward noted Condition of Approval 3 mentioned by Speaker Theobald. She stated that Speaker Theobald did not reference the Condition of Approval 8 that clarified the extent of the CC&Rs. She reported that wetlands delineations are valid for a period of approximately 5 – 7 years, so the regulations for what is proposed in this Subdivision go through the SLO analysis if those platted elements change. The Code regulations for this zone still apply, as do all of the Plat Notes.

Condition of Approval 8 states that, "The Staff shall revise the language in the CC&Rs regarding Accessory Apartments to limit the unit square footage so as to preclude construction of duplexes, ensure adequate parking, restrict Nightly Rentals, and require entrance from the main structure."

Commissioner Suesser sought clarification that City Staff was required to revise the language of the CC&Rs. Director Ward explained City Staff was to review the final language specific to architecture, use, and Accessory Apartments. All of the other regulations for this property were set forth in the Plat Notes, the SLO, and the zoning. At the request of Commissioner Suesser, Director Ward repeated Condition of Approval 8 from the 1993 approval as follows, "The Staff shall revise the language in the CC&Rs regarding Accessory Apartments to limit the unit square footage so as to preclude construction of duplexes, ensure adequate parking, restrict Nightly Rentals, and require entrance from the main structure."

Commissioner Suesser asked City Attorney Harrington if the Condition of Approval required Staff to revise the CC&Rs. City Attorney Harrington responded that it speaks for itself and stated it says Staff was to review them for compliance as specified in the Condition. Commissioner Suesser noted it should have said, "review" instead of "revise."

Commissioner Johnson understood that Staff was to review the CC&Rs to ensure that they were consistent with the underlying documents. Commissioner Suesser questioned if that was the case.

City Attorney Harrington explained that this was an extension of a standard Condition of Approval. Staff reviews CC&Rs for every Subdivision, but noted that the City does not adopt the CC&Rs. He confirmed that Staff redlines CC&Rs pursuant to specific Conditions of Approval and will recommend revisions but Staff does not have signature or amendment authority. Any amendments to CC&Rs inconsistent with express Conditions of Approval cannot be overridden, and for any subsequent application, the City would not recognize that amendment. HOAs cannot adopt CC&Rs that are inconsistent with express Conditions of Approval.

Commissioner Suesser asked the applicant to clarify the basis on which they defined the wetland area. Applicant-representative Call explained that the Site Plan that showed the green wetlands area came from the preliminary wetland delineation. That was submitted to the Army Corps of Engineers, who then requested additional information this spring. The wetlands shown come from the report submitted on June 28, 2023, on page 244 of the Packet.

Commissioner Johnson requested an edit to Condition of Approval 7 and suggested replacing “designation” with “delineation” in two locations to make it consistent with Finding of Fact 21.

Commissioner Suesser referenced Commissioner Sigg’s earlier comments about having final reports prior to making a decision, and she wondered if Condition of Approval 7 violated that suggestion.

Vice-Chair Van Dine offered that they established that if there were any significant changes to the delineation, the applicant would be required to return to the Commission. She did not want the applicant to have to wait until May and felt the Condition was written strictly in this regard. Commissioner Suesser noted it states “any modifications” which was good and agreed with Vice Chair Van Dine’s comments.

Commissioner Johnson also agreed and felt because the applicant was dealing with the Army Corps of Engineers, they needed more time. He also noted that the applicant could not record it until it was fully vetted by the Army Corps. He noted a professional consultant performed the preliminary delineation.

Applicant-representative Call added that they presented this now, as there is a short building season, and waiting for the final delineation and then scheduling the matter for the Planning Commission might put them back into winter.

In response to a question from Commissioner Sigg, it was noted that Condition of Approval 7 mandated that the Applicant must return to the Planning Commission if the delineation changes. City Attorney Harrington noted that the plat must be recorded prior to the Building Permit. He confirmed that the Commission was not approving recordation of the plat.

Commissioner Sigg asked if there was a wildlife habitat provision in the SLO Ordinance. Director Ward confirmed and noted that was reviewed at the time of the original Subdivision. There is a platted corridor for the Willow Creek Subdivision and no part of that corridor is on Lot B.

MOTION: Commissioner Johnson moved to APPROVE AS AMENDED 2685 Meadow Creek Drive – Plat Amendment based on the following:

Findings of Fact

1. In 1980, the Park City Municipal Corporation (the City) approved the McLeod Creek Subdivision.
2. On January 22, 1985, the City Council passed Ordinance 86-5, rezoning McLeod Creek Subdivision to being Single Family (SF) Zoning District.
3. On December 17, 1992, the City Council formally annexed what would become the Willow Ranch Subdivision, zoning it Estate and Recreation Open Space.
4. On January 28, 1993, the City Council approved the final plat for the Willow Ranch Subdivision, which consisted of six lots.
5. The City was creating the SLO at the same time as the Willow Ranch annexation, so the SLO didn't initially apply as the Annexation was vested.
6. To provide protection in the absence of the SLO, specific building pads for a Single-Family Dwelling and Barn, driveway easements, and square footage were placed as restrictions on the Plat.
7. Lot 6, which is now Parcel B, was one such Lot.
8. In 1995, the then-owner wished to add an addition to the existing Single-Family Dwelling located on Lot 10 of the McLeod Creek Subdivision, but this proposed addition encroached into setbacks. The owner also owned Lot 6 of Willow Ranch, which was vacant. The property owner applied to create the two-lot Smith Subdivision. To accommodate the addition, the Lot line for Lot 10 would be shifted north to incorporate part of Lot 6. This new Lot was named Parcel A. The remainder of Lot 6 became Parcel B.
9. On August 31, 1995, the City Council approved the Smith Subdivision. The Lot 6 Building Pads for the potential Single-Family Dwelling and Barn remained on the Smith Subdivision Plat, but neither the Square Footages nor the Driveway Easement are shown. Ordinance 95-44, which approved the Smith Subdivision, included Condition of Approval (COA) 3, which

states, "All previous conditions of the Willow Ranch and McLeod Creek Subdivisions shall remain in full force and effect."

10. The addition was not constructed.
11. On September 8, 2022, the Planning Department received a Plat Amendment from the current applicant seeking to adjust the lot line for Parcels A and B to restore it to the original boundary between the McLeod and Willow Ranch Subdivisions. That application was under the address 2647 Meadow Creek Drive (Parcel A) and assigned the number PL-22-05374. As part of Staff's analysis of the application, it was determined that the Applicant would need to complete a Wetlands Delineation as required by LMC § 15-2.21-6.
12. A COA was recommended where the final location of the Building Pads would be determined by the Planning Director and City Engineer following that Delineation. Staff also recommended that the restrictions and Plat Notes that had been included on the Willow Ranch Plat, but weren't included on the Smith Subdivision Plat, would be placed on the amended Smith Subdivision Plat, as they remained in effect due to COA 3 of Ordinance 95-44. The Plat Amendment was scheduled for a public hearing before the Planning Commission on December 14, 2022, but the applicant withdrew the application before the.
13. In preparation for submitting a new Plat Amendment application, the applicant reached out to Staff to determine what would be required under the SLO and expressed their interest in building the Barn first.
14. Staff took the proposal to the Development Review Committee (DRC) on August 15, 2023. Following the meeting, the applicant worked with the Planning Department, City Engineer, Park City Fire District (PCFD), and the public utilities to amend their proposal.
15. On January 4, 2024, the applicant submitted the formal application for a Plat Amendment.
16. Staff published notice on the City's website and the Utah Public Notice website, and posted notice to the property on February 28, 2024. Staff mailed a courtesy notice to property owners within 300 feet on February 28, 2024. The Park Record published notice on February 28, 2024.
17. Parcel B is located within the Estate Zoning District.
18. Land Management Code (LMC) § 15-2.10-2 establishes that both Single Family Dwellings and Agriculture are Allowed Uses within the Estate Zone.

19. Per LMC Chapter 15-2.10, all structures within the Estate Zone are subject to the following criteria:

Estate Zone Requirements	Analysis of Proposal
Lot Size	<i>LMC § 15-2.10-3(A) requires that all uses (except Duplexes) have a minimum Lot Size of 3 Acres.</i> Complies: Parcel B has a Lot Size of 6.4 Acres
Lot Width	<i>LMC § 15-2.10-3(B) requires a minimum Lot Width of 100 feet.</i> Complies: Parcel B has a Lot Width of 304 feet.
Setbacks	<i>LMC § 15-2.10-3(C) establishes that Setbacks for Front, Rear, and Sides to be 30 feet.</i> Complies: The Building Pad for the Single Family Dwelling is located 44.68 feet from the Northern Lot Line. The Barn Building Pad is located 103.29 feet from the Northern Lot Line.
Building Height	<i>LMC § 15-2.10-4 sets a Building Height of 28 feet from Existing Grade.</i> Complies: The Building Height for the Barn will be 27.125 feet.

20. Parcel B is located within the SLO, specifically in relation to Wetlands located on the Lot. LMC § 15-2.21-6(D) requires that the Applicant provide a wetlands delineation. The Applicant has completed a provisional delineation (Exhibit X) which identified two Wetlands on Parcel B, shown on the Site Plan Concept. LMC § 15-2.21-6(F) requires a 50-foot Setback from all Wetlands. As the Site Plan Concept shows, the existing Building Pads for both the Barn and Single Family Dwelling encroach on the Wetlands Setback.
21. The Applicant has contacted the Army Corps of Engineers for a formal delineation by them, and the fieldwork will occur in the Spring.

22. The current Smith Subdivision Plat also established that the area added to Lot 10, forming Parcel A, was to be a non-build Yard Area.
23. Plat Amendments shall be reviewed according to LMC § 15-7.1-6 Final Subdivision Plat and approval requires (a) a finding of Good Cause, and (b) a finding that no Public Street, Right-of-Way, or easement has been vacated or amended.
24. Good Cause exists for the Plat Amendment as it resolves existing issues and non-conformities, specifically by moving the Building Pads outside of the Wetlands Setbacks and by moving the Parcel B Driveway Easement exclusively onto Parcel B as well as bringing a potential driveway into compliance with PCFD requirements.
25. No changes to the public street or Right-of-Way are proposed. The utility easements running around the property will not be amended. The Driveway Easement will be amended, but it is not a public easement.

Conclusions of Law

1. The proposed Plat Amendment complies with the LMC Requirements pursuant to Chapter 15-2.10 for the Estate Zoning District.
2. The proposed Plat Amendment complies with the LMC Requirements pursuant to Chapter 15-2.21 for the SLO.
3. The proposed Plat Amendment complies with the LMC Requirements pursuant to LMC Chapter 15-7.1 for Subdivision Procedures as there is Good Cause and no Public Street, Right-of-Way, or easement is vacated or amended.

Conditions of Approval

1. The City Attorney and City Engineer will review and approve the final form and content of the amended plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of Planning Commission approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the Planning Director.

3. No Building Permit application may be submitted until after this plat amendment has been recorded with the County.
4. Development on Parcel A must conform with the land use regulations of the Single-Family Zoning District.
5. Development on Parcel B must conform with the land use regulations of the Estate Zoning District and the Sensitive Land Overlay.
6. Easements established as part of the 1995 Smith Subdivision are required to be retained or relocated pursuant to documented easement holder permission, including a 10-foot existing utility and drainage easement common to both Lots.
7. Prior to the recordation of the amended plat, the applicant shall submit an updated wetland delineation approved by the Army Corps of Engineers to confirm the designated building pads and proposed driveway comply with required wetland regulations. If modifications to the designated building pads and proposed driveway location are required, the Applicant shall return to the Planning Commission for additional review and approval based upon the updated wetland delineation to ensure compliance with the Sensitive Land Overlay and to mitigate site disturbance. Such modifications shall not result in any net expansion of a building pad.
8. Plat notes shall require the following:
 - a. A maximum of three horses will be allowed and grazing of horses in the wildlife corridor is prohibited for Parcel B.
 - b. Home square footage is limited to a maximum of 8,000 square feet for Parcel B.
 - c. Barn square footage is limited to a maximum of 1,800 square feet for Parcel B. Residential use and human occupancy of the barn are prohibited.
 - d. The building height of the home and barn on Parcel B is limited to 23 feet to the midpoint of the roof and 28 feet to the peak of the roof.
 - e. Parcel B is subject to an Animal Management Plan and Equestrian Lot Open Space Covenant Executed with Park City Municipal Corporation.
 - f. Basements are prohibited for Parcel B.

9. A Plat Note shall indicate that the area added to Lot 10 of the McLeod Creek Subdivision, which is zoned Estate Zoning District, from the Willow Ranch Subdivision, shall be a non-build area with such uses allowed as were previously allowed as part of Lot 6 of the Willow Ranch Subdivision.

Commissioner Frontero seconded the motion.

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

ADJOURNMENT

MOTION: Commissioner Suesser moved to adjourn.

The meeting adjourned at approximately 8:20 PM

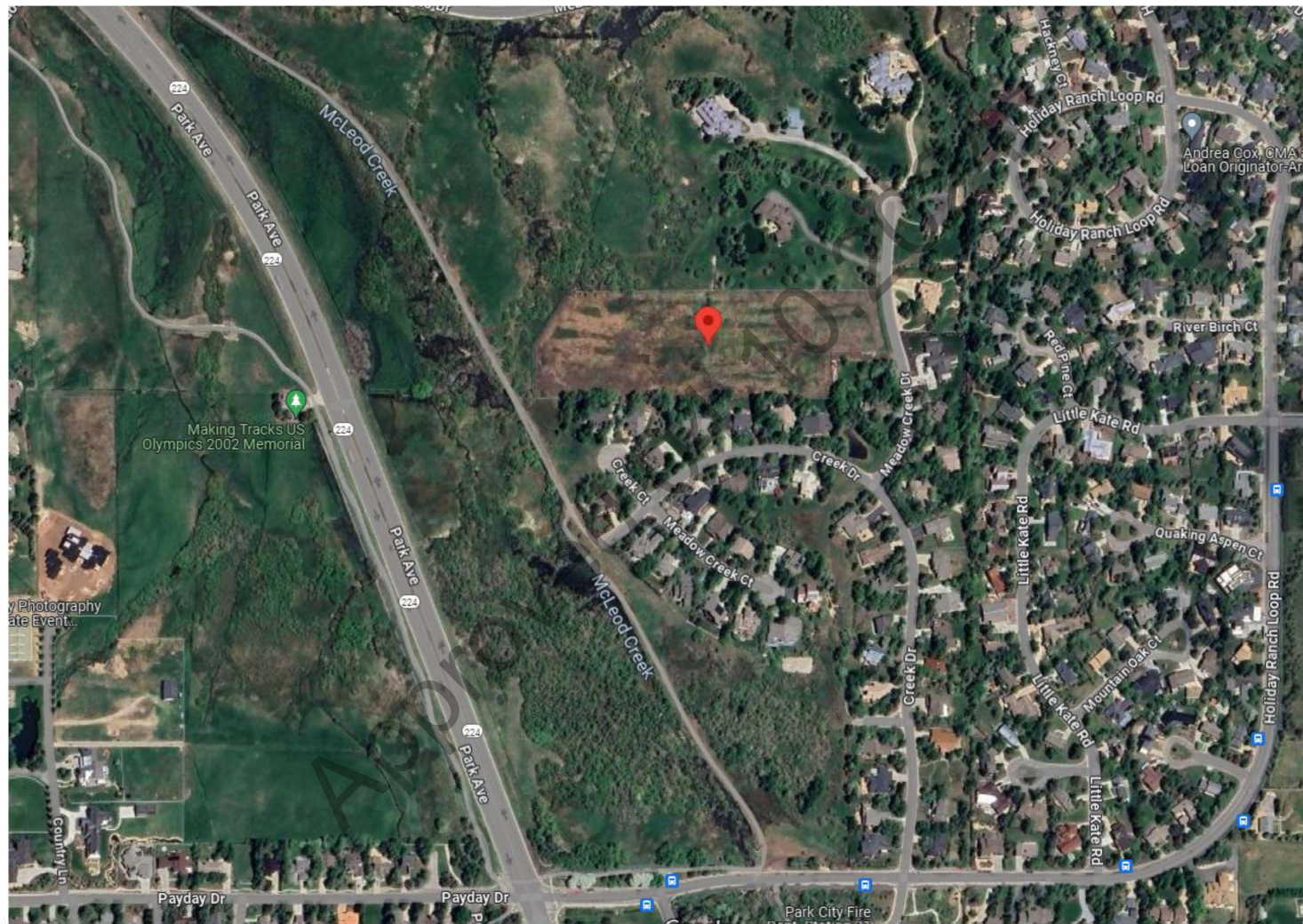
Approved 04.10.2024

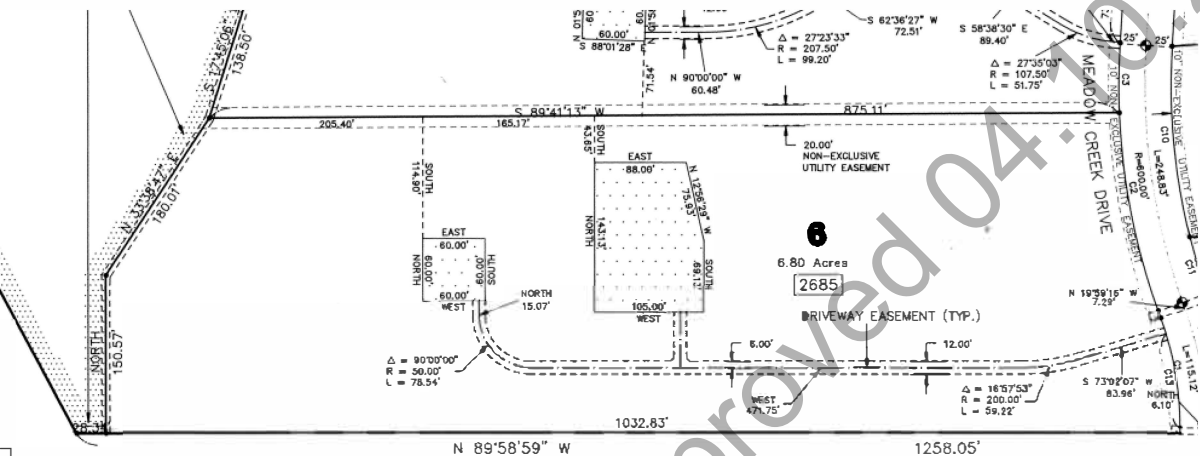
2685 MEADOW CREEK DRIVE

PLAT AMENDMENT

PL-24-06033
March 13, 2024
Planning Commission







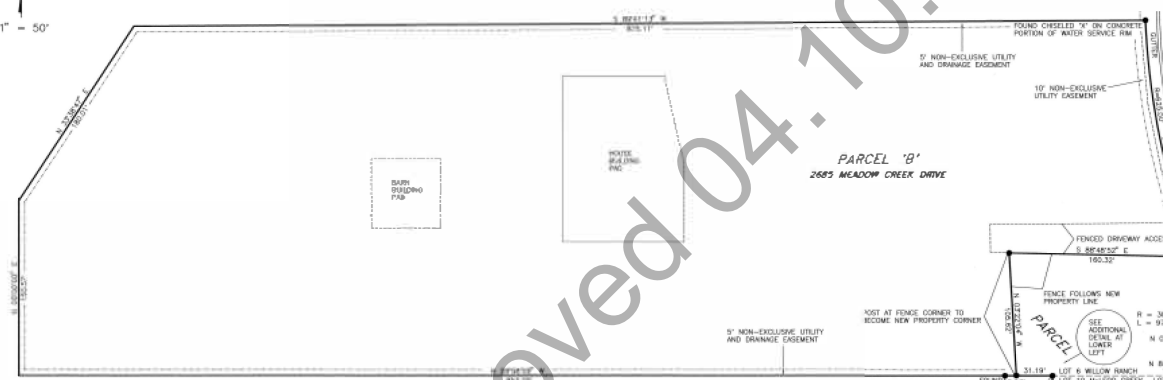
NOTES:

1. BUILDINGS SHALL BE CONSTRUCTED WITHIN THE LIMITS OF SHOWN BUILDING PADS.
2. ON LOTS 1 AND 2, THE TOTAL IMPACTED AREA, INCLUDING BUILDING FOOTPRINT AND ADDITIONAL FILL, SHALL NOT EXCEED 14,000 SQUARE FEET.
3. A 5 FOOT NON-EXCLUSIVE UTILITY AND DRAINAGE EASEMENT IS HEREBY DEDICATED ALONG BOTH SIDES OF ALL LOT LINES.
4. A 10 FOOT NON-EXCLUSIVE UTILITY EASEMENT IS HEREBY DEDICATED ALONG FRONT LOT LINES.
5. ALL FOOTING AND FOUNDATION DESIGNS SHALL BE APPROVED BY GEOTECHNICAL ENGINEERS.
6. IRRIGATION IN ALL LOTS BY SPRINKLER ONLY.
7. ON LOTS 1, 2, 6, AND 7 A MAXIMUM OF THREE HORSES WILL BE ALLOWED AND NO GRAZING OF HORSES IN THE WILDLIFE CORRIDORS.
8. OWNERS OF LOTS 1, 2, 6, AND 7 ARE REQUIRED TO INSTALL AND MAINTAIN LOT LINE FENCING IN ACCORDANCE WITH THE C.C.&R.s AND DESIGN GUIDELINES OF WILLOW RANCH.
9. HOME SQUARE FOOTAGES WILL BE LIMITED TO A MAXIMUM OF 8,000 SQUARE FEET ON LOTS 1, 2, 6, AND 7 AND 4400 SQUARE FEET ON LOTS 3, 4, AND 5.
10. BARN SQUARE FOOTAGES WILL BE LIMITED TO A MAXIMUM OF 1,800 SQUARE FEET WITH NO HUMAN OCCUPANCY.
11. BUILDING HEIGHTS OF HOMES AND BARNS WILL BE LIMITED TO 23 FEET TO MIDPOINT OF ROOF AND 28 FEET TO PEAK OF ROOF.
12. HOMES ON LOTS 1, 2, 6, AND 7 WILL BE REQUIRED TO INSTALL MODIFIED 13-D FIRE SPRINKLER SYSTEMS AS DIRECTED BY THE PARK CITY FIRE MARSHALL.
13. LOTS 1, 2, 6, AND 7 ARE SUBJECT TO AN ANIMAL MANAGEMENT PLAN AND EQUESTRIAN LOT OPEN SPACE COVENANT EXECUTED WITH THE PARK CITY MUNICIPAL CORPORATION.
14. NO BASEMENTS ARE ALLOWED.
15. PRIOR TO OCCUPANCY OF ANY HOUSE, ITS DRIVEWAY MUST BE PAVED.



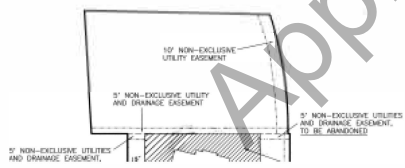
WILLOW RANCH SUBDIVISION

PARCEL 'B'
2683 MEADOW CREEK DRIVE



THE BASIS OF BEARINGS IS
 $S 89^{\circ}17'50'' E$ 259.12'
BETWEEN THE TWO FOUND
CENTERLINE POINTS SHOWN

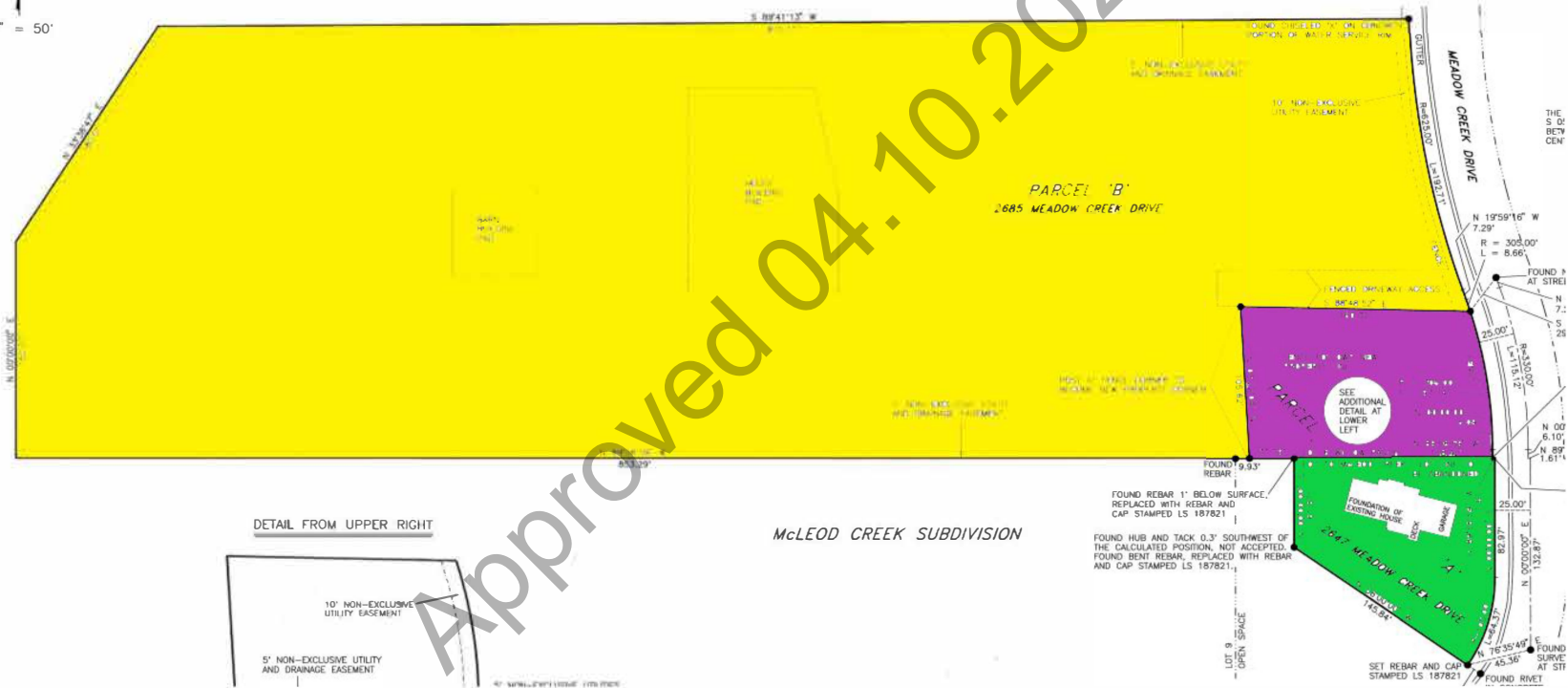
DETAIL FROM UPPER RIGHT

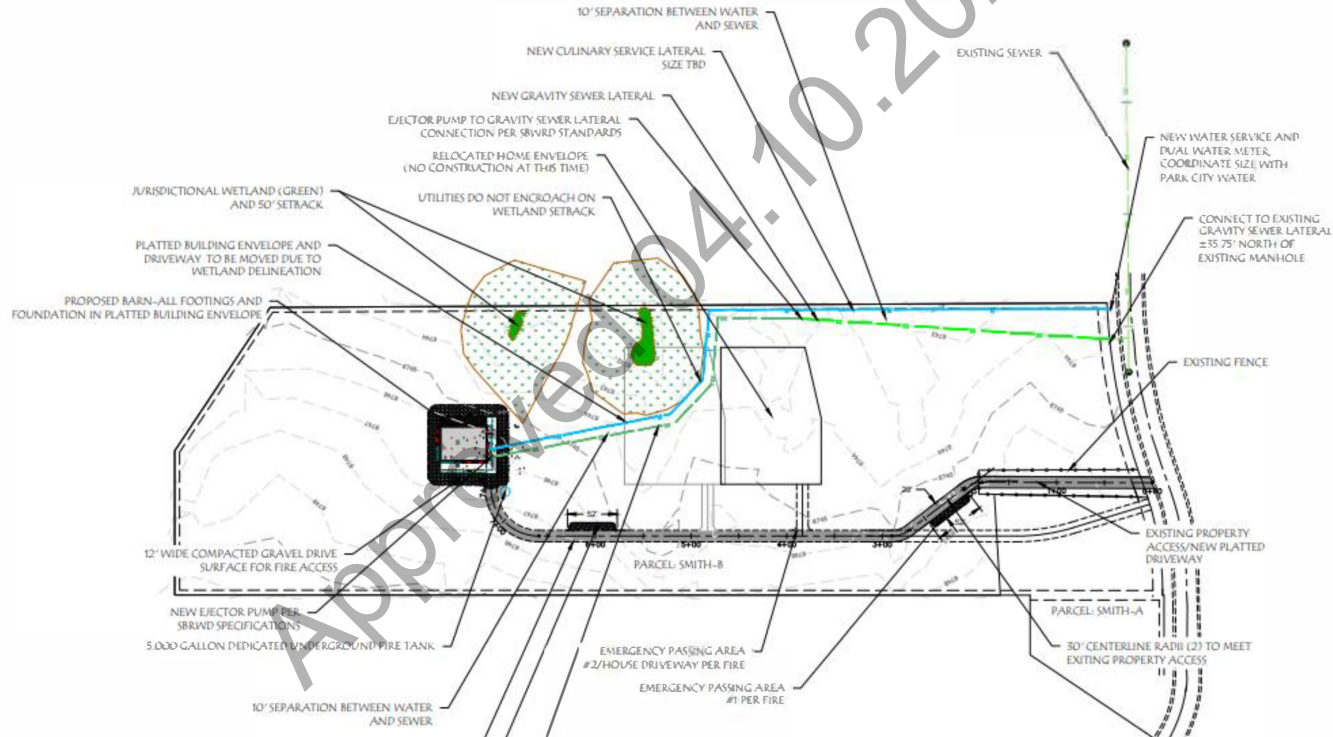


McLEOD CREEK SUBDIVISION



1" = 50'





BACKGROUND

2685 MEADOW CREEK

- 1980 McLeod Creek Approval
- 1985 McLeod Rezone to Single Family
- 1992 Willow Ranch Approval
- 1995 Smith Subdivision Approval
- 2022 Withdrawn Plat Amendment Application
- August 15, 2023, DRC Review of Current Application



ESTATE ZONE

2685 MEADOW CREEK

- Agriculture and Single-Family Dwelling are Allowed Uses
- Lot B complies with Size and Width Requirements
- Complies with 30 foot Setbacks
- Barn is 27.125 feet in height



SENSITIVE LAND OVERLAY

2685 MEADOW CREEK

- Building Pads are proposed to be moved out of 50 Foot Wetland Setbacks
- Staff recommends COA 7 to accommodate any changes from the final Wetlands Delineation
- Staff recommends COA 8 to ensure consistency with the Willow Ranch Subdivision Plat
- Staff recommends COA 9 to ensure consistency with the current Smith Subdivision Plat

GOOD CAUSE

2685 MEADOW CREEK

The proposal to amend the Smith Subdivision complies with the Subdivision Procedures outlined in LMC Chapter 15-7.1.

- Resolves existing issues by moving Building Pads out of Wetlands Setbacks, bringing the Driveway Easement into compliance with PCFD requirements, and locating it exclusively on Parcel B.

RECOMMENDATION

2685 MEADOW CREEK

(I) Review the proposed Smith Subdivision First Amended to shift the existing Building Pads out of the Wetlands to Maintain the Sensitive Land Overlay and amend the Driveway Easement to be entirely on Parcel B, (II) hold a public hearing, and (III) consider approving the proposed Plat Amendment subject to the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter.



COAs

2685 MEADOW CREEK

COA 7: Prior to the recordation of the amended plat, the applicant shall submit an updated wetland designation approved by the Army Corps of Engineers to confirm the designated building pads and proposed driveway comply with required wetland regulations. If modifications to the designated building pads and proposed driveway location are required, the Applicant shall return to the Planning Commission for additional review and approval based upon the updated wetland designation to ensure compliance with the Sensitive Land Overlay and to mitigate site disturbance. Such modifications shall not result in any net expansion of a building pad.

COAs

2685 MEADOW CREEK

COA 8: Plat notes shall require the following:

- a) A maximum of three horses will be allowed and grazing of horses in the wildlife corridor is prohibited for Parcel B.
- b) Home square footage is limited to a maximum of 8,000 square feet for Parcel B.
- c) Barn square footage is limited to a maximum of 1,800 square feet for Parcel B. Residential use and human occupancy of the barn is prohibited.
- d) Building height of the home and barn on Parcel B is limited to 23 feet to midpoint of roof and 28 feet to peak of roof.
- e) Parcel B is subject to an Animal Management Plan and Equestrian Lot Open Space Covenant Executed with Park City Municipal Corporation.
- f) Basements are prohibited for Parcel B.

COAs

2685 MEADOW CREEK

COA 9: A Plat Note shall indicate that the area added to Lot 10 of the McLeod Creek Subdivision, which is zoned Estate Zoning District, from the Willow Ranch Subdivision shall be a non-build area with such uses allowed as were previously allowed as part of Lot 6 of the Willow Ranch Subdivision.



DATE: March 13, 2024
TO: Park City Planning Commission
FROM: Bob Theobald
RE: Comments - 2685 Meadow Creek Drive - PL 24-06033

It appears that the Planning Department, specifically, Jaron Ehlers, planning technician and Planning Director Ward are unfamiliar with some of the critical aspects of the 1993 Willow Ranch Subdivision MPD process, i.e. Notice of Final Action agreement setting forth the requirements to provide applicable definitions, exhibits and restrictions as detailed in the 1993 CC&Rs. See COA #2 and #3.

Perhaps the reason for this “oversight” is that Alaine Caraher, Applicant/Owner of Lot 6, as HOA Vice President executed on November 28, 2022 and recorded on December 7, **2022**, the amended CC&Rs Without institutional memory or knowledge of the existence of 1993 CC&Rs, an unsuspecting planner (or City official) might refer to only the most recently recorded 2022 CC&Rs which improperly deleted **all** Articles, Exhibits and restrictive provisions of the 1993 CC&Rs.

There is evidence that Planning Commissioner Sarah Hall, now Chair and owner of Lots 1 and 2 in Willow Ranch Subdivision, orchestrated the CC&R amendments in fall of 2022 to assist in concealing and facilitating compliance of an improper building permit and other violations beginning in 2021.

Park City officials including all members of the Planning Commission were notified of the recently discovered 2022 CC&Rs by email on December 19, 2023 and February 7, 2024.

The 2022 CC&Rs violate elements of the 1993 Master Plan Development (MPD) Conditions of Approval, Ordinance 2021-20, the Sensitive Lands Overlay (SLO) and Army Corps of Engineer’s (Corps) restrictions. [Dropbox - Analysis and Supporting Documents](#)

The Staff Report to Application PL 24-06033 located at 2685 Meadow Creek Drive fails to recognize several critical matters and nuances relative to the original 1993 MPD approval that must be addressed prior to granting this application.

1. Willow Ranch is a 7-lot subdivision – not a 6-lot subdivision.
2. Notice of Final Action - Conditions of Approval – January 19, 1993 (COA #2 and #3)
3. Reference to “Building Pads” should be “Limits of Disturbance Area/Building Pad” All Lots in Willow Ranch are subject to specific LODA designated by setbacks from Lot property boundary for Lots 3, 4, 5, and by survey for Lots 1, 2, 6, and 7. The LOD for Lots 1, 2, 6, and 7 are shown on the lower-left part of the 1993 Plat. This issue was

adjudicated by the Board of Adjustment where it found that Director Milliken misinterpreted the LODA lines as only standard Estate District “setbacks” resulting in illegally granting the building permit on August 9, 2021, for the sauna building on Willow Ranch Lot 4. Furthermore, in correspondence on December 5, 2021, the City **incorrectly** suggested only a CUP process was necessary (without a plat amendment) for the 90% complete and unpermitted pickleball court on Lot 3 which also violated the platted Limits of Disturbance Area. BoA Ruling 3-1-22. Apparently, Director Ward does not recall this ruling in which she participated and Planner Erlers has not been counseled or informed of this matter.

4. Should not the existence of Exhibit H to CC&Rs – Army Corps of Engineers (Corps) Permit # 199250275 be recognized and addressed in the Findings? The Limits of Disturbance/Buildings Pads were placed on the property as a result of the wetlands delineation by the developer and accepted by the Corps. The City adopted these boundaries.
5. The Staff Reports states:
“When the Willow Ranch Subdivision was created, many restrictions were placed onto the Plat. Those restrictions were not incorporated into the Smith Subdivision Plat, but Ordinance No. 95-44 included COA 3 which stated, “All previous conditions of the Willow Ranch and McLeod Creek Subdivision shall remain in full force and effect” (Exhibit J). Staff recommends these be added as plat notes to the Amended Smith Subdivision Plat (Conditions of Approval 8)”

Should not the 1993 MPD Conditions of Approval of the be added as a Plat Note?

I am available for clarification and further discussion.

Bob Theobald
435-714-0301

Attached Exhibits

- Notice of Final Action - Conditions of Approval – January 19, 1993 (COA #2 and #3)
- Excerpts from 1993 and 2022 CC&RS
- Army Corps of Engineers Permit #199250275 page 2 of 4 and Signature page.
- Email to City 2-7-2024 -- Notification of 2022 Amendment to CC&Rs
- Email to City 2-5-2024 – Executive Summary of Analysis of 2022 CC&Rs

PARK CITY

1884

January 29, 1993

Jeff Graham
Jack Johnson Company
1910 Prospect Avenue, Suite 200
Park City, UT 84060

NOTICE OF FINAL ACTION

Project Name: Willow Ranch Subdivision

Project Description: Preliminary and Final Plat of a 7-Lot
Single Family Subdivision

Action Taken By Planning Commission: APPROVED - January 27, 1993

Action Taken By City Council: APPROVED - January 28, 1993

Conditions of Approval:

1. Information shall be included on the plat regarding the following:
 - ✓house and barn building pads, sizes and heights
 - ✓wildlife corridors
 - ✓fire sprinkling
2. Prior to plat recordation the City Council, City Attorney and City Engineer shall have reviewed and approved the plat and accompanying Animal Management Plan. The Animal Management Plan shall include restrictions on the number of horses, grazing, fencing, and uses within the wildlife corridor.
3. Prior to plat recordation the Community Development Department and City Attorney shall have reviewed and approved the CC&Rs which shall include restrictions on architecture and use.
4. Prior to plat recordation the City Engineer shall have received approval from all utility companies serving the property. The plat shall have been deemed to be denied in the event utility easements not currently shown on the plat are in fact required by any franchised utility provider and a new plat shall be required to be approved by the City. This condition does not apply to various drainage easements for existing storm drain channels and culverts, which shall be shown on the plat.

5. The security guaranteeing the installation of public improvements shall include stream channel mitigation according to a plan approved by the Community Development Director. It is anticipated that the mitigation will take two or more years to accomplish and it is the intent of the Planning Commission that no public improvements shall be accepted by the City until the Community Development Director has determined that successful mitigation has been accomplished. A separate guarantee will be required to ensure adequate mitigation of disturbance to the stream channel in accordance with the approved plan.
6. A note shall be added to the plat that the driveway must be paved prior to occupancy of each house.
7. A sidewalk shall be included along the cul de sac.
8. The staff shall revise the language in the CC&Rs regarding accessory apartments to limit the unit square footage so as to preclude construction of duplexes, ensure adequate parking, restrict nightly rentals, and require entrance from the main structure.

Date of Expiration:

January 28, 1994

Suzanne McIntyre, AICP
Senior Planner

2/2/93
Date

ACKNOWLEDGEMENT

I, the undersigned, hereby acknowledge the conditions by which the project referred to above was approved.

William A. Kunch Development Inc.
Pres. William A. Kunch Development Inc.

3/1/93
Date

NO CONSTRUCTION SHALL BE PERMITTED UNTIL A SIGNED COPY OF THIS LETTER, SIGNIFYING CONSENT TO THE CONDITIONS OUTLINED ABOVE, HAS BEEN RETURNED TO THE PLANNING DEPARTMENT.

Excerpt from 2022 CC&Rs

title of the land, and be binding upon the Owners, their successors, assigns, heirs, lien holders, and any other person holding any interest in the Property and shall inure to the benefit of all other Property.

NOW, THEREFORE, after incorporating the above Recitals, the Association strikes Articles 1-11 of the Original Declaration, including all its exhibits, and replaces those provisions as follows:

These covenants, conditions, and restrictions shall be binding upon the Association as well as its successors in interest and may be enforced only by the Association or by any Owner; and, no other persons or entities, including but not limited to the City and adjacent neighbors, have the ability to enforce the Declaration, Articles, Plat, or Bylaws ("Governing Documents"). Only Owners have standing to enforce the Governing Documents upon another Owner or the Association.

"THEREFORE" of the 2022 CC&Rs strikes (deletes) Articles 1-11 and all Exhibits of the original 1993 CC&Rs including:

1. Exhibit "H" - Corps Permits 199250275 (wetlands restrictions).
2. Limits of Disturbance definition – Changed to allow Improvements outside the original LOD without consent of the Corps nor the City.
3. The definition and application of Floor Area has been changed to a new term and definition - "living area" - which is proposed to determine compliance with maximum home square footage specifically affecting Lot #2 Plat Notes #13, #17 and #19. This methodology of calculating Floor Area is in violation of the LMC, Plat Notes and original CC&Rs.
4. Exhibit F - Max Floor Area has been replaced with Exhibit "D"

"Limits of Disturbance Area" shall mean the area within each Lot which is the outer limit of the area which may be disturbed by construction activity. The maximum size of the Limits of Disturbance Area for each Lot is shown on Exhibit "F" to this Declaration. For an Equestrian Lot, the lawful creation and maintenance of ponds, diversions, canals and other irrigation structures and their appurtenances shall not be subjected to the Limits of Disturbance

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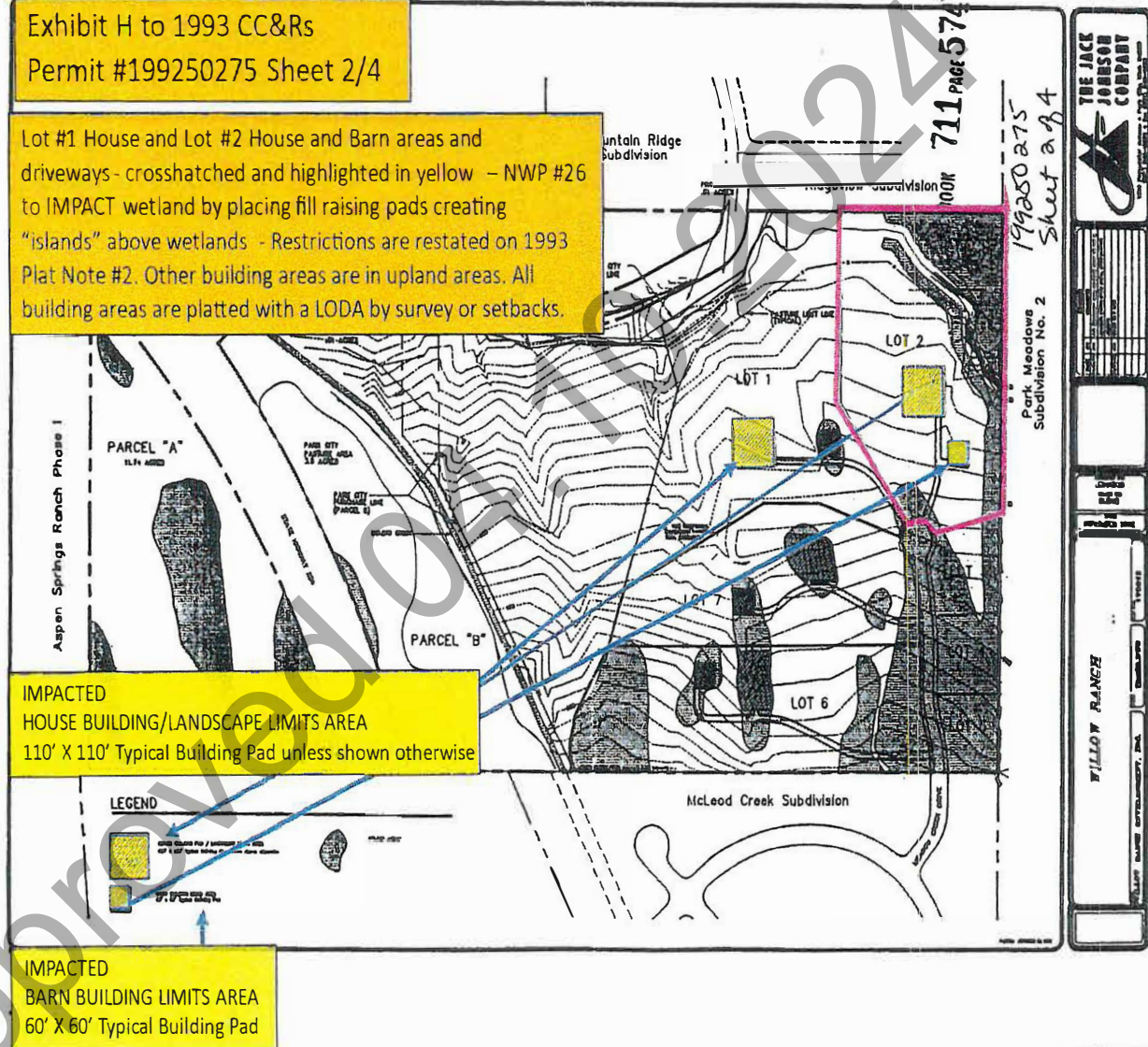
Area calculations. For a Lot, the Barn Limits of Disturbance Area shall mean the area designated as such on the Plat, and as shown on Exhibit F hereof. Each Lot owner will be required to comply with the terms and conditions of the permit issued by the Army Corps of Engineers relating to Wetlands mitigation and restoration. A copy of the Permit is attached as Exhibit "H" to this Declaration.

Exhibit H to 1993 CC&Rs
Permit #199250275 Sheet 2/4

Lot #1 House and Lot #2 House and Barn areas and driveways - crosshatched and highlighted in yellow - NWP #26 to IMPACT wetland by placing fill raising pads creating "islands" above wetlands - Restrictions are restated on 1993 Plat Note #2. Other building areas are in upland areas. All building areas are platted with a LODA by survey or setbacks.

IMPACTED
HOUSE BUILDING/LANDSCAPE LIMITS AREA
110' X 110' Typical Building Pad unless shown otherwise

IMPACTED
BARN BUILDING LIMITS AREA
60' X 60' Typical Building Pad



predecessors) laws and you must have an understanding and direct say in interpreting, administering, and enforcing them, not just a brief from the legal department. If not available through the City without a GRAMA request, I can provide a link to the court documents upon request.

For a limited time, I am representing the lawsuit pro se. I have been willing to settle from day one - all it takes is compliance and enforcement. I would hope the City is prepared to seriously discuss settlement and end the litigation process. I am.

Otherwise...

Respectfully and hopeful,

Bob Theobald
2810 Holiday Ranch Loop Rd
Park City, Utah 84060
435-714-0301
Bob@Theoski.com

Approved 04.10.2024

Date: February 5, 2024
To: Mayor Worel, City Council, Planning Commission and Staff
From: Bob Theobald
Re: **Executive Summary - Analysis of Willow Ranch 2022 CC&Rs - Update**

The recently discovered (December **2023**) amended Willow Ranch Declaration of Covenants, Conditions, and Restrictions (CC&Rs) were executed on November 28, 2022 by the HOA Vice President Elaine Caraher (Owner Lot 6) and recorded by the Summit County Recorder on December 7, **2022**. The amended CC&Rs are believed to violate elements of the 1993 Master Plan Development (MPD), Ordinance 2021-20, the Sensitive Lands Overlay (SLO) and Army Corps of Engineer's (Corps) restrictions.

Planning Commissioner Sarah Hall, now Chair, owns/controls Lots 1 and 2 in Willow Ranch Subdivision and may have orchestrated the amendments in fall of 2022 to assist in concealing and facilitating an improper building permit and other violations beginning in 2021. Subsequently during 2023, Commissioner Hall apparently continued to systematically amend City regulations affecting her development plans by participating and voting on LMC amendments beneficial to her without properly disclosing a conflict of interest directly related to on-going landscaping and Development activities in "previously verified wetlands" in the SLO zone.

The Hall's Willow Ranch Lot 2 Replat - Ordinance 2021-20 references many provisions of the 1993 CC&Rs that are definitive to, and inseparable from, the Ordinance/Plat that demands compliance. However, consequential elements of the 1993 CC&Rs have been stricken/deleted which renders the Ordinance (Plat and Notes) moot. It is impossible for a City planner or the general public to ascertain and enforce the intent of the 1993 MPD, Plats, SLO or Corps restrictions by reviewing only the 2022 CC&Rs as several integral elements have been deleted or materially changed.

Specific issues – (not all inclusive):

1. Deleting "Limits of Disturbance Area" (LODA) designated by the Corps and adopted by the City.
2. Deleting Article 3.3 Variance providing for LODA amendment approval by the City and Corps
3. Deleting Exhibit H - Army Corps of Engineers Permit #199250275 (wetlands restrictions)
4. Changing the methodology of the applicable Maximum Floor Area of the Dwelling and Barn
5. Deleting elements necessary to provide notice to Owners and City staff of applicable wetlands regulations and other criteria for SLO analysis including view corridors.

The 2022 CC&Rs changed the meaning of the Ordinance/Plat. Evidence shows that certain City officials may have been aware of, and/or otherwise condoned or complicit to the 2022 CC&Rs amendment as it appears that no repudiation has been directed to City staff or recorded of public record. In fact, staff may have relied upon and employed the 2022 CC&Rs in performance of their duties without proper diligence, disclosure to superiors, or provided the facts in responses to Complainant's GRAMA requests.

The documents linked below detail specific major violations and impacts of the 2022 CC&Rs.

- [Dropbox - Analysis and Supporting Documents](#)
 - Analysis Narrative
 - 1993 CC&Rs and 2022 CC&Rs
 - 1993 Plat and Notes
 - 2021 WLR -Lot 2 Plat with Amended and Restated Plat Notes
- [Staff Report 2021-20 Lot 2 Plat Amendment](#)
- [Ordinance 2021-20 Lot 2 Replat](#)